

THE
STUDENT'S
LAW COMPANION
IN FIVE VOLUMES.

EDITED BY
M. L. AGARWALA, B. SC., LL. B., (LONDON.)

VOLUME III.

Allahabad:

PRINTED AND PUBLISHED BY RAM NABAIN LAL,
AT THE NATIONAL PRESS.

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THE ROYAL CHARTER ACT.

The Indian High Courts Act, 1861.

24 & 25 VICT., CAP. 104.

*An Act for establishing High Courts of Judicature
in India.*

1. *Repealed by the Statute Law Revision Act,
1892.*

2. The Judges of the High Court of Judicature at Madras shall consist of the following Judges, to-wit:—

... shall consist of ...
Judges, not exceeding fifteen, as Her Majesty may
from time to time think fit to appoint, who shall be
selected from—

1st.—Barristers of not less than five years' standing; or,

2nd.—Members of the Covenanted Civil Service of not less than ten years' standing, who shall have served as Zila Judges, or shall have exercised the like powers as those of a Zila Judge for at least three years of that period; or,

3rd.—Persons who have held Judicial Office not inferior to that of Principal Sadr Amin or Judge of a Small Cause Court for a period of not less than five years; or,

4th.—Persons who have been Pleaders of a Sadr Court or High Court for a period of not less than

Royal Charter Act—1

24 & 25
Vict.,
cap. 104.

ten years, if such Pleaders of a Sadr Court shall have been admitted as Pleaders of a High Court :

Provided that not less than one-third of the Judges of such High Courts respectively, including the Chief Justice, shall be Barristers, and not less than one-third shall be Members of the Covenanted Civil Service.

3. [*Rep. 41 and 42 Vict., c. 79 (Statute Law Revision Act).*]

4. All the Judges of the High Court established by
Tenure of
Judges, or
tion.

pleasure : provided, that it shall be lawful for any Judge of a High Court to resign such office of Judge to the Governor-General of India in Council, or Governor in Council of the Presidency in which such High Court is established.

5. The Chief Justice of any such High Court shall have rank and precedence of High Court. before the other Judges of the same Court, and, except as aforesaid, all the Judges of each High Court shall have rank and precedence according to the seniority of their appointments, unless otherwise provided in their Patents.

6. It shall be lawful for the Secretary of State Salaries, &c., of in Council of India to fix the Judges of High salaries, allowances, furloughs, Courts. retiring pensions, and (where necessary) expenses for equipment and voyage of the Chief Justices and Judges of the several High Courts under this Act, and from time to time to alter the same : provided always, that such alteration shall not affect the salary of any Judge appointed prior to the date thereof.

24 & 25
Vict.,
cap. 104.

7. Upon the happening of a vacancy in the office of Chief Justice, and during any absence of a Chief Justice, the Governor-General in Council, or Governor in Council, as the case may be, shall appoint one of the Judges of the same High Court to perform the duties of Chief Justice of the said Court until some person has been appointed by Her Majesty to the office of Chief Justice of the same Court, and has entered on the discharge of the duties of such office, or until the Chief Justice has returned from such absence ;

and upon the happening of a vacancy in the office of any other Judge of any such High Court, and during any absence of any such Judge, or on the appointment of any such Judge to act as Chief Justice, it shall be lawful for the Governor-General in Council, or Governor in Council as the case may be, to appoint a person, with such qualifications as are required in persons to be appointed to the High Court, to act as a Judge of the said High Court ;

and the person so appointed shall be authorized to sit and perform the duties of a Judge of the said Court until some Majesty to the and has entered on such office or until the absent Judge has returned from such absence, or until the Governor-General in Council or Governor in Council as aforesaid shall see cause to cancel the appointment of such acting Judge.

8. *[Abolition of the Supreme Courts at Calcutta, Madras and Bombay, of the Court of Sudder Dewany Adalat and Sudder Nizamat Adalat at Calcutta, of Sudder Adalat, Foujdary Adalat at Madras, and of*

24 & 25
Vict.,
cap. 104.

ten years, if such Pleaders of a Sadr Court shall have been admitted as Pleaders of a High Court :

Provided that not less than one-third of the Judges of such High Courts respectively, including the Chief Justice, shall be Barristers, and not less than one-third shall be Members of the Covenanted Civil Service.

3. [*Rep. 41 and 42 Vict., c. 79 (Statute Law Revision Act).*]

4. All the Judges of the High Courts established under this Act shall hold their Tenure of office of Judges, and resignation offices during Her Majesty's pleasure : provided, that it shall be lawful for any Judge of a High Court to resign such office of Judge to the Governor-General of India in Council, or Governor in Council of the Presidency in which such High Court is established.

5. The Chief Justice of any such High Court shall have rank and precedence Precedence of Judges before the other Judges of the all the Judges and precedence and precedence for appointments, unless otherwise provided in their patents.

6. It shall be lawful for the Secretary of State Salaries, &c., of in Council of India to fix the Judges of High salaries, allowances, furloughs, Courts. retiring pensions, and (where necessary) expenses for equipment and voyage of the Chief Justices and Judges of the several High Courts under this Act, and from time to time to alter the same : provided always, that such alteration shall not affect the salary of any Judge appointed prior to the date thereof.

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Vict.,
cap. 104.

ment, or of any Orders of Her Majesty in Council or Charters, or of any Acts of the Legislature of India, which at the time or respective times of the establishment of such High Courts are respectively applicable to the Supreme Courts at Fort William in Bengal, Madras and Bombay respectively, or to the Judges of those Courts, shall be taken to be applicable to the said High Courts, and to the Judges thereof respectively, so far as may be consistent with the provisions of this Act, and the Letters Patent to be issued in pursuance thereof and subject to the legislative powers in relation to the matters aforesaid of the Governor-General of India in Council.

12. From and after the abolition of the Courts Provision as to pending proceedings in abolished Courts. abolished as aforesaid in any of the said Presidencies, the High Court of the same Presidency shall have jurisdiction over all proceedings pending in such abolished Courts at the time of the abolition thereof,

...ings
with
Court,
... be continued as
er and according
rts respectively.

13. Subject to any laws or regulations which may be made by the Governor-General, Power to High Courts to provide for exercise of jurisdiction by single Judges or Division Courts. under this Act may by its own rules provide for the exercise by one or more Judges, or by Division Courts, constituted by two or more Judges of the said High Court, of the original and appellate jurisdiction vested in such

24 & 25
 Vict.,
 cap 104.

14. The Chief Justice

Chief Justice to determine what Judges shall sit alone or in the Division Courts.

from time to time determine what Judge in each case shall sit alone, and what Judges of the Court, whether with or without the Chief Justice, shall constitute the several Division Courts as aforesaid.

15. Each of the High Courts established under this Act shall have superintendence

High Courts to superintend and to frame rules of practice for subordinate Courts.

call for returns and to direct the transfer of any suit or appeal from any such Court to any other Court of equal or superior jurisdiction, and shall have power to make rules for regulating the trials, and also to make rules for the said Courts that a form be provided, and also for keeping all books, entries and accounts to be kept by the officers, and also to settle tables of fees to be allowed to the Sheriff, Attorneys and all Clerks and Officers of Courts, and from time to time to alter any such rule or form or table;

and the rules so made, and the forms so framed, and the tables so settled, shall be used and observed in the said Courts: provided that such general rules and forms and tables be not inconsistent with the provisions of any law in force, and shall before they are issued have received the sanction, in the Presidency of Fort William, of the Governor-General in Council, and, in Madras or Bombay, of the Governor in Council of the respective Presidencies.

16. It shall be lawful for Her Majesty, if at any time hereafter Her Majesty see fit so to do, by Letters Patent under the Great Seal of the United Kingdom, to erect and establish a High Court of Judicature in and for any portion of the territories within Her Majesty's dominions in India, not included within the limits of the local jurisdiction of another High Court

Her Majesty may establish a High Court in and for any portion of the territories within Her Majesty's dominions in India not included within the limits of the local jurisdiction of another High Court, to consist of a Chief Justice, and of such number of other Judges, with such qualifications as are required in persons to be appointed to the High Courts established at the Presidencies hereinbefore mentioned, as Her Majesty from time to time may think fit to appoint ;

24 ■ 25
Vict.,
cap. 104.

and it shall be lawful for Her Majesty, by such Letters Patent to confer on such Court any such jurisdiction, powers and authority as under this Act is authorized to be conferred on or will become vested in the High Court to be established in any Presidency hereinbefore mentioned ;

and, subject to the directions of such Letters Patent, all the provisions of this Act having reference to the High Court established in any such Presidency, and to the Chief Justice and other Judges of such Court, and to the Governor-General or Governor of the Presidency in which such High Court is established, shall, as far as circumstances may permit, be applicable to the High Court established in the said territories, and to the Chief Justice and other Judges thereof, and to the person administering the government of the said territories.

17. *Repealed by the Statute Law Revision Act.*

24 & 25
Vict.,
cap. 104.

18. [*Repealed by 28 and 29 Vict., c. 15, s. 2.*]

19. The word "Barrister" in this Act shall be deemed to include Barristers of England or Ireland or Members of the Faculty of Advocates in Scotland; and the words "Governor-General" and "Governor" shall comprehend the officer administering the Government.

Interpretation
terms. of

LETTERS PATENT FOR ESTABLISHING A HIGH COURT IN THE N.-W. PROVINCES.

Dated March, 17, 1866.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to all to whom these presents shall come, greeting : Whereas, by an Act of Parliament passed in the twenty-fourth and twenty-fifth years of Our reign, intituled "An Act for establishing High Courts of Judicature in India," it was, amongst other things, enacted that it should be lawful for Her Majesty, by Letters Patent under the Great Seal of the United Kingdom, to erect and establish a High Court of Judicature at Fort William in Bengal for the Bengal Division of the Presidency of Fort William aforesaid, and that such High Court should consist of a Chief Justice and as many Judges, not exceeding fifteen, as Her Majesty might, from time to time, think fit to appoint, who should be selected from among persons qualified as in the said Act is declared : Provided always that the persons who, at the time of the establishment of such High Court, were Judges of the Supreme Court of Judicature, and permanent Judges of the Court of Sadr Diwani Adalat or Sadr Adalat of the same Presidency, should be and be deemed to be Judges of such High Court without Chief Justice of such High Court, and that, upon the establishment of such High Court as aforesaid, the Supreme Court and the Court of Sadr Nizamat

Letters Patent—N.-W. P.—1.

Adalat at Calcutta, in the said Presidency, should be abolished :

And that the High Court of Judicature so to be established should have and exercise all such civil, criminal, admiralty and vice-admiralty, testamentary, intestate, and matrimonial jurisdiction, original and appellate, and all such powers and authority for and in relation to the administration of justice in the said Presidency as Her Majesty might, by such Letters Patent as aforesaid, grant and direct, subject, however, to such directions and limitations, as to the exercise of original, civil, and criminal jurisdiction beyond the limit of the Presidency-towns, as might be prescribed thereby ; and save as by such Letters Patent might be otherwise directed, and subject and without prejudice to the legislative powers in relation to the matters aforesaid of the Governor-General of India in Council, the High Court so to be established should have and exercise all jurisdiction and every power and authority whatsoever, in any manner vested in any of the Courts in the same Presidency abolished under the said Act at the time of the abolition of such last-mentioned Court :

And whereas it is farther declared by the said recited Act that it shall be lawful for Us by Letters Patent to erect and establish a High Court of Judicature in and for any portion of the territories within Her Majesty's Dominions in India, not included within the limits of the local jurisdiction of another High Court, to consist of a Chief Justice and such number of other Judges, with such qualifications as were by the same Act mentioned and pointed to the
Presidencies, .
fit to appoint ; and that, subject to the directions of

the Letters Patent, all the provisions of the said recited Act relative to High Courts and to the Chief Justice and other Judges of such Courts, and to the Governor-General, or Governor of the Presidency in which such High Courts were established, shall, as far as circumstances may permit, be applicable to any new High Court which may be established in the said territories, and to the Chief Justice and other Judges thereof, and to the persons administering the Government of the said territories :

And whereas We did, upon full consideration of the premises, think fit to erect and establish, and by Our Letters Patent under the Great Seal of the United Kingdom of Great Britain and Ireland bearing date at Westminster, the fourteenth day of May in the twenty-fifth year of Our reign, in the year of our Lord one thousand eight hundred and sixty-two, did accordingly, for Us, Our heirs and successors, erect and establish, at Fort William in Bengal, for the Bengal Division of the Presidency of Fort William aforesaid, a High Court of Judicature which should be called the High Court of Judicature at Fort William in Bengal, and did thereby constitute the said Court to be a Court of Record :

1. Now know ye that We, upon full consideration of the premises, and of Our special grace, certain knowledge, and mere motion, have thought fit to erect and establish, and by these presents We do accordingly, for Us, Our heirs and successors, erect and establish, in the North-Western Provinces of the Presidency of Fort William aforesaid, a High Court of Judicature, which shall be called the High Court of Judicature for the North-Western Provinces, and We do

Secs.
2-4.

hereby constitute the said Court to be a Court of Record.

2. And We do hereby appoint and ordain that the said High Court of Judicature for the North-Western Provinces shall, until further or other provision shall be made by Us, or Our heirs and successors in that behalf made, in accordance with the said recited Act, consist of one Chief Justice and five Judges, the first Chief Justice being Walter Morgan Esqr., and five Judges being Alexander Ross Esqr., William Edwards Esqr., William Roberts Esqr., Francis Boyle Pearson Esqr., and Charles Arthur Turner Esqr., being respectively qualified as in the said Act is declared.

3. And We do hereby ordain that the Chief Justice and every Judge of the said High Court of Judicature for the North-Western Provinces, previously to entering upon the execution of the duties of his office, shall make and subscribe the following declaration before such authority or person as the Governor-General in Council may commission to receive it:

"I, A. B., appointed Chief Justice [or a Judge] of the High Court of Judicature for the North-Western Provinces, do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge, and judgment."

4. And We do hereby grant, ordain, and appoint that the said High Court of Judicature shall have and use, as occasion may require, a seal bearing a device and impression of Our Royal Arms, within an exergue or label surrounding the same, with this inscription, "The High Court for the North-Western Provinces."

And we do further grant, ordain, and appoint that the said seal shall be delivered to and kept in the Custody of the Chief Justice, and in case of vacancy of the office of Chief Justice, or, during any absence of the Chief Justice, the same shall be delivered over and kept in the Custody of the person appointed to act as Chief Justice, under the provisions of section of the said recited Act ; and We do further grant, ordain, and appoint that whensoever it shall happen at the office of Chief Justice or of the Judge to whom the Custody of the said seal be committed shall be vacant, the said High Court shall be and is hereby authorized and empowered to demand, seize, and take the said seal from any person or persons whomsoever, by what ways and means soever the same may have come to his, her, or their possession.

5. And We do hereby further grant, ordain, Writs &c, how to and appoint that all writs, summonses, precepts, rules, orders, and other mandatory process to be used, issued, or awarded by the said High Court of Judicature for the North-Western Provinces, shall run and be in the name and style of Us, or of Our heirs and successors, and shall be sealed with the seal of the said High Court.

6. And We do hereby authorize and empower the Chief Justice of the said High Court of Judicature for the North-Western Provinces from time to time, as occasion may require, and subject to any rules and restrictions which may be prescribed by the Governor-General in Council, to appoint so many and such clerks and other ministerial officers as shall be found necessary for the administration of justice, and the due execution of all the powers and authorities

Sec. 7. granted and committed to the said High Court by these Our Letters Patent. And We do hereby ordain that every such appointment shall be forthwith submitted to the approval of the Lieutenant-Governor of the North-Western Provinces, and shall be either confirmed or disallowed by the said Lieutenant-Governor. And it is Our further will and pleasure, and We do hereby, for Us, Our heirs and successors, give, grant, direct, and appoint that all and every the officers and clerks to be appointed as aforesaid shall have and receive respectively such reasonable salaries as the Chief Justice shall, from time to time, appoint for each office and place respectively, and as the Lieutenant-Governor of the North-Western Province, subject to the control of the Governor-General in Council, shall approve of: Provided always, and it is Our will and pleasure, that all and every the officers and clerks to be appointed as aforesaid shall be resident within the limits of the jurisdiction of the said Court, so long as they shall hold their respective offices; but this proviso shall not interfere with or prejudice the right of any officer or clerk to avail himself of leave of absence under any rules prescribed by the Governor-General in Council, and to absent himself from the said limits during the term of such leave, in accordance with the said rules.

As to Admission of Advocates, Vakils, Attorneys.

7. And We do hereby authorize and empower the said High Court of Judicature for the North-Western Provinces to approve, admit, and enrol such and so many Advocates, Vakils, and Attorneys, as to the said High Court shall seem meet; and such Advocates, Vakils, and Attorneys, shall be and are hereby authorized to appear for the suitors of the

said High Court, and to plead or to act, or to plead and act, for the said suitors, according to the said High Court may, by its rules and directions, determine, and subject to such rules and directions.

8. And We do hereby ordain that the said High Court of Judicature for the North-Western Provinces shall have power to make rules for the qualification and admission of proper persons to be Advocates, Vakils, and Attorneys-at-Law of the said High Court, and shall be empowered to remove or to suspend from practice, on reasonable cause, the said Advocates, Vakils, or Attorneys-at-Law; and no person whatever, but such Advocates, Vakils, or Attorneys, shall be allowed to act or to plead for, or on behalf of, any suitor in the said High Court, except that any suitor shall be allowed to appear, plead, or act on his own behalf, or on behalf of a co-sutor.

Civil Jurisdiction.

9. And We do further ordain that the said High Court of Judicature for the North-Western Provinces shall have power to remove, and to try and determine, as a Court of extraordinary original jurisdiction, any suit being or falling within the jurisdiction of the said Court, subject to the agreement of the parties to that effect, or for purposes of justice, the reason for so doing being recorded on the proceedings of the said High Court.

10. And We do further ordain that an appeal shall lie to the said High Court of Judicature for the North-Western Provinces from the judgment (not being a sentence or order passed or made in any

appeal may be from
the Courts of original
jurisdiction to High
Court in its appellate
jurisdiction

Secs.
11-12.

criminal trial) of one Judge of the said High Court or of one Judge of any Division Court, pursuant to section 13 of the said recited Act, and that an appeal shall also lie to the said High Court from the judgment (not being a sentence or order as aforesaid) of two or more Judges of the said High Court, or of such Division Court, wherever such Judges are equally divided in opinion, and do not amount in number to a majority of the whole of the Judges of the said High Court at the time being; but that the right of appeal from other judgments of Judges of the said High Court or of such Division Court in such case shall be to Us, Our heirs or successors, in Our or their Privy Council, as hereinafter provided.

11. And We do further ordain that the said High Court of Judicature for the North-Western Provinces shall be a Court of appeal from the Civil Courts of the North-Western Provinces, and from all other Courts to which there is now appeal to the Sadr Diwani Adalat, and shall exercise appellate jurisdiction in such cases as are subject to appeal to the said High Court by virtue of any laws or regulations now in force.

12. And We do further ordain that the said High Court of Judicature for the North-Western Provinces shall have the like power and authority with respect to lunatics.

Residency of Fort William by the High Court of Judicature at Fort William in Bengal, but subject to the provisions of any laws or regulations now in force.

*Law to be administered.*Secr.
13-15.

13. And We do further ordain that, with res-

By High Court in the
exercise of extraordi-
nary original civil in-
spection.

pect to the law or equity to be
applied to each case coming be-
fore the said High Court of In-

Provinces in

nal civil jurisdiction, such law or equity shall, until
otherwise provided, be the law or equity which
would have been applied to such case by any local
Court having jurisdiction therein.

14. And We do further ordain, that with res-

By High Court in
the exercise of appel-
late jurisdiction.

pect to the law or equity and
rule of good conscience to be
applied by the said High Court

of Judicature for the North-Western Provinces, to
each case coming before it in the exercise of its ap-
pellate jurisdiction, such law or equity and rule of
good conscience shall be the law or equity and rule
of good conscience which the Court in which the
proceedings in such case were originally instituted
ought to have applied to such case.

Criminal Jurisdiction.

15. And We do further ordain that the said

Ordinary original
jurisdiction.

High Court of Judicature for the
North-Western Provinces shall have
ordinary original criminal jurisdic-

tion in respect of all such persons within the said
Provinces as the High Court of Judicature at Fort
William in Bengal shall have criminal jurisdiction
over at the date of the publication of these presents ;
and the criminal jurisdiction of the said last-mention-
ed High Court over such persons shall cease at such
date : Provided nevertheless, that criminal proceed-

Secs.
11-12.

criminal trial) of one Judge of the said High Court or of one Judge of any Division Court, pursuant to section 13 of the said recited Act, and that an appeal shall also lie to the said High Court from the judgment (not being a sentence or order as aforesaid) of two or more Judges of the said High Court, or of such Division Court, wherever such Judges are equally divided in opinion, and do not amount in number to a majority of the whole of the Judges of the said High Court at the time being; but that the right of appeal from other judgments of Judges of the said High Court or of such Division Court in such case shall be to Us, Our heirs or successors, in Our or their Privy Council, as hereinafter provided.

11. And We do further ordain that the said
As to appeal from High Court of Judicature for
Court in the Provinces the North-Western Provinces
shall be a Court of appeal from the Civil Courts of
the North-Western Provinces, and from all other
Courts to which there is now appeal to the Sadr
Diwani Adalat, and shall exercise appellate juris-
diction in such cases as are subject to appeal to the
said High Court by virtue of any laws or regulations
now in force.

12. And We do further ordain that the said
As to infants and High Court of Judicature for the
lunatics. North-Western Provinces shall
have the like power and authority with respect
to the persons and estates of such persons as are
infants or lunatics, as the High Court of Judicature
at Fort William in Bengal, but subject
to the provisions of any laws or regulations now in
force.

as may be necessary, and finally determine such point or points of law, and thereupon to alter the sentence passed by the Court of original jurisdiction, and to pass such judgment and sentence as to the said High Court shall seem right.

Secs.
20-22

20. And We do further ordain that the said High Court of Judicature for the North-Western Provinces shall be a Court of appeal from the Criminal Courts of the said provinces and from all other Courts from which there is now an appeal to the Court of Sadr Nizamat Adalat for the said Provinces, and shall exercise appellate jurisdiction in such cases as are subject to appeal to the said Court of Sadr Adalat by virtue of any law now in force

21 And We do further ordain that the said High Court shall be a Court of reference and revision from the Criminal Courts subject to its appellate jurisdiction, and shall have power to hear and determine all such cases referred to it by the Sessions Judges or by any other officers now authorized to refer cases to the Court of Sadr Nizamat Adalat of the North-Western Provinces, and to revise all such cases tried by any officer or Court possessing criminal jurisdiction as are now subject to reference to, or revision by, the said Court of Sadr Nizamat Adalat.

22. And We do further ordain that the said High Court shall have power to direct the transfer of any criminal case or appeal from any Court to any other Court of equal or superior jurisdiction, and also to direct the preliminary investigation or

As to the transfer of a case from one Court to another

Secs.
16-19.

ings which shall, at such date, have commenced in the said last-mentioned High Court, shall continue as if these presents had not been issued

16. And We do further ordain, that the said High Court of Judicature for the North-Western Provinces, in the exercise of its ordinary original criminal jurisdiction, shall be empowered to try all persons brought before it in due course of law.

17. And We do further ordain that the said High Court of Judicature for the North-Western Provinces shall have extraordinary original criminal jurisdiction over all persons residing in places within the jurisdiction of any Court now subject to the superintendence of the Sadr Nizamat Adalat, and shall have authority to try at its discretion any such persons brought before it on charges preferred by any Magistrate or other Officer specially empowered by the Government in that behalf

18. And We do further ordain that there shall be no appeal to the said High Court from any sentence or order passed or made in any criminal trial before the Courts of original criminal jurisdiction which may be constituted by one or more Judges of the said High Court. But it shall be at the discretion of any such Court to reserve any point or points of law for the opinion of the said High Court.

19. And We do further ordain that, on such point or points of law being so reserved as afore-said, the said High Court shall have full power and authority to review the case, or such part of it

Sec. 30.

before the said High Court, in the exercise of its ordinary original criminal jurisdiction, shall be regulated by the procedure and practice which was in use in the High Court of Judicature for Fort William in Bengal immediately before the publication of these presents, subject to any law which has been or may be made in relation thereto by competent legislative authority for India; and that the proceedings in all other criminal cases shall be regulated by the Code of Criminal Procedure, prescribed by an Act passed by the Governor-General in Council, and being Act No XXV of 1861,* or by such further or other laws in relation to criminal procedure as may have been or may be made by such authority as aforesaid.

* Now
Act V
of 1898.

As to Appeals to the Privy Council.

30. And We do further ordain that any person or persons may appeal to Us, Our heirs and successors, in Our or their Privy Council, in any matter not being of criminal jurisdiction, from any final judgment, decree, or order of the said High Court of Judicature for the North-Western Provinces, made on appeal, and from any final judgment, decree, or order made in the exercise of original jurisdiction by Judges of the said High Court, or of any Division Court, from which an appeal shall not lie to the said High Court under the provisions contained in the 10th clause of these presents: Provided, in either case, that the sum or matter at issue is of the amount or value of not less than 10,000 rupees, or that such judgment, decree, or order shall involve, directly or indirectly, some claim, demand, or question to or respecting property amounting to or of the value of not

Appeals

And that no law, or other order or rule of the said High Court, should or might have been executed.

Power of Government to call for Record, &c.

34. And it is Our further will and pleasure th the said High Court of Judicature for the North Western Province shall comply with such regulations as may be made by the Government for records, returns, and statements in such form a manner as such Government may deem proper.

Powers of Indian Legislature preserved.

35. And We do further ordain and declare th all the provisions of these Our Letters Patent s subject to the legislative powers of the Government General in Council, exercised at meetings for the purpose of making laws and regulations, and also the Government General in cases of emergency and the provisions of an Act of the twenty-fourth a twenty-fifth years of Our reign, chapter sixty-sev and may be in all respects amended and altered thereby.

In witness whereof We have caused these Letters to be made Patent. Witness Ourselves Westminster, the seventeenth day of March in twenty-ninth year of Our reign.

By warrant under the Queen's Sign Manual.

(Signed) C. ROMIL

ACT XII. OF 1887.

Bengal, N.-W. P., and Assam Civil Courts Act.

RECEIVED THE G.-G.'S ASSENT ON THE 11TH
MARCH, 1887.

An Act to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western Provinces and Assam.

WHEREAS it is expedient to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western Provinces and Assam ; it is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887 ;
Title, extent and commencement.

(2) It extends to the territories for the time being respectively administered by the Lieutenant-Governor of Bengal, the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Assam, except such portions of those territories as for the time being are not subject to the ordinary civil jurisdiction of the High Court, and

(3) It shall come into force on the first day of July 1887.

2. (1) [*Repealed by Act XII. of 1891.*]

(2) All Courts constituted, appointments, nominations, rules and orders made, jurisdiction and powers conferred, and lists published, under the Bengal Civil Courts Act, 1871, or any enactment thereby repealed, or purporting expressly or impliedly to have been

Act XII. of 1887. so constituted, made, conferred and published, shall be deemed to have been respectively constituted, made, conferred and published under this Act ; and

(3) Any enactment or document referring to the Bengal Civil Courts Act, 1871, or to any enactment thereby repealed, shall be construed to refer to this Act, or to the corresponding portion thereof.

CHAPTER II

CONSTITUTION OF CIVIL COURTS.

3 There shall be the following classes of Civil Courts under this Act, namely :—

- (1) the Court of the District Judge ;
- (2) the Court of the Additional Judge ;
- (3) the Court of the Subordinate Judge ;
- (4) the Court of the Munsif.

4. The Local Government may, with the previous sanction of the Governor-General in Council, increase or reduce the number of District Judges and Subordinate Judges now fixed.

5. The Local Government may, subject to the control of the Governor-General in Council, alter the number of Munsifs now fixed :

Provided that, except in the case of Munsifs whose monthly salary does not exceed two hundred and fifty rupees, an increase of the number of Munsifs now fixed shall not be made by the Local Government without the previous sanction of the Governor-General in Council.

6. (1) Whenever the office of District Judge or Subordinate Judge is vacant by reason of the death, resignation or removal of the Judge or other cause, or whenever the Governor-General in Council has sanctioned an increase of the number of District Judges or Subordinate Judges, the Local Government may fill up the vacancy, or appoint the additional District Judges or Subordinate Judges, as the case may be.

(2) Nothing in this section shall be construed to prevent a Local Government from appointing a District Judge or Subordinate Judge to discharge for such period as it thinks fit, in addition to the functions devolving on him as such District Judge or Subordinate Judge, all or any of the functions of another District Judge or Subordinate Judge, as the case may be.

7. (1) Whenever the office of Munsif is vacant, or whenever the Local Government increases the number of Munsifs, the High Court shall nominate such person as it thinks fit to be a Munsif, and the Local Government shall appoint him accordingly.

(2) The Local Government may, after consultation with the High Court and with the previous sanction of the Governor-General in Council, make rules as to the qualifications of persons to be appointed to the office of Munsif.

(3) When rules have been made under sub-section (2), a person shall not be nominated under sub-section (1) unless he possesses the qualifications required by the rules.

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of 1887.

8. (1) When the business pending before any District Judge requires the aid of Additional Judges for its speedy disposal, the recommendation of

requisite.

(2) Additional Judges so appointed shall discharge any of the functions of a District Judge which they, and, in the absence of the District Judge, shall exercise the

9. Subject to the superintendence of the High Court, the District Judge shall have administrative control over all the Civil Courts, under this Act within the local limits of his jurisdiction.

10. (1) In the event of the death, resignation or removal of the District Judge, or

the District Judge, and shall continue in charge thereof until the office is resumed by the District Judge, or assumed by an officer appointed thereto.

(2) While in charge of the office of the District Judge, the Additional Judge or Subordinate Judge, shall exercise the same powers and rules which the District Judge shall exercise.

11. (1) In the event of the death, resignation or removal of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the District Judge may transfer all or any of the proceedings pending in the Court of the Subordinate Judge either to his own Court or to any Court under his administrative control competent to dispose of them.

(2) Proceedings transferred under sub-section (1) shall be disposed of as if they had been instituted in the Court to which they are so transferred :

(3) Provided that the District Judge may re-transfer to the Court of the Subordinate Judge or his successor any proceedings transferred under sub-section (1) to his own or any other Court.

(4) For the purposes of proceedings which are not pending in the Court of the Subordinate Judge on the occurrence of an event referred to in sub-section (1), and with respect to which that Court has exclusive jurisdiction, the District Judge may exercise all or any of the jurisdiction of that Court.

12. (1) A District Judge, on the occurrence with-
Temporary charge of in the local limits of his jurisdic-
tion of any vacancy in the office
of Munsif, may appoint such person as he thinks fit to
act in the office until that person is relieved by a
Munsif appointed under section 7, or his appointment
is cancelled by the District Judge.

(2) The District Judge shall forthwith report to
the High Court the occurrence of every such vacancy

Act-XII. of 1887. and the making and cancelling of every such appointment.

13. (1) The Local Government may, by notification in the official Gazette, fix the local limits of jurisdiction of any Civil Court under this Act.

(2) If the same local jurisdiction is assigned to two or more Subordinate Judges, or to two or more Munsifs, the District Judge may assign to each of them such civil business cognizable by the Subordinate Judge or Munsif, as the case may be, as, subject to any general or special orders of the High Court, he thinks fit.

(3) When civil business arising in any local area assigned by the District Judge under sub-section (2) to one of two or more Subordinate Judges, or to one of two or more Munsifs, a decree or order passed by the Subordinate Judge or Munsif shall not be invalid by reason only of the case in which it was made having arisen wholly or in part in a place beyond the local area, if that place is within the local limits fixed by the Local Government under sub-section (1).

(4) A Judge of a Court of Small Causes appointed to be also a Subordinate Judge or Munsif is a Subordinate Judge or Munsif, as the case may be within the meaning of this section.

(5) The present local limits of the jurisdiction of every Civil Court under this Act shall be deemed to have been fixed under this section.

14. (1) The Local Government may, by notification in the official Gazette, fix the place or places at which any Civil Court under this Act is to be held.

(2) All places at which any such Courts are now held shall be deemed to have been fixed under this section. Act XII.
of 1887.

15. (1) Subject to such orders as may be made by the Governor-General in Council, the High Court shall prepare a list of days to be observed in each year as close holidays in the Civil Courts.

(2) The list shall be published in the local official Gazette.

(3) A judicial act done by a Civil Court on a day specified in the list shall not be invalid by reason only of its having been done on that day.

16. Every Civil Court under this Act shall use a seal of such form and dimensions as are prescribed by the Local Government.

17. (1) Where any Civil Court under this Act has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to that case which, if that Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court to which the business of the former Court has been transferred.

(2) Nothing in this section applies to cases for which provision is made in section 623 or section 649 of the Code of Civil Procedure, or in any other enactment for the time being in force.

CHAPTER III.

ORDINARY JURISDICTION

18. Save as otherwise provided by any enactment for the time being in force, the jurisdiction of a District Judge or Subordinate Judge ex-

Extent of original jurisdiction of District or Subordinate Judge.

Art XII. of 1887. **tends, subject to the provisions of section 15 of the Code of Civil Procedure, to all original suits for the time being cognizable by Civil Courts.**

19. (1) Save as aforesaid, and subject to the Extent of jurisdiction of Munsif provisions of sub-section (2), the jurisdiction of a Munsif extends to all like suits of which the value does not exceed one thousand rupees.

(2) The Local Government may, on the recommendation of the High Court, direct by notification in the official Gazette, with respect to any Munsif named therein, that his jurisdiction shall extend to all like suits of such value not exceeding two thousand rupees as may be specified in the notification.

20. (1) Save as otherwise provided by any Appeals from District and Additional Judges enactment for the time being in force, an appeal from a decree or order of a District Judge or Additional Judge shall lie to the High Court.

(2) An appeal shall not lie to the High Court from a decree or order of an Additional Judge in any case in which, if the decree or order had been made by the District Judge, an appeal would not lie to the Court.

Appeals from Subordinate Judges and Munsifs

21. (1) Save as aforesaid, an appeal from a decree or order of a Subordinate Judge shall lie—

(a) to the District Judge where the value of the original suit, in which or in any proceeding arising out of which the decree or order was made, did not exceed five thousand rupees, and

(b) to the High Court in any other case.

(2) Save as aforesaid, an appeal from a decree or order of a Munsif shall lie to the District Judge. Act 7 of 18

(3) Where the function of receiving any appeals which lie to the District Judge under sub-section (1) or sub-section (2) has been assigned to an Additional Judge, the appeals may be preferred to the Additional Judge.

(4) The High Court may, with the previous sanction of the Local Government, direct, by notification in the official Gazette, that appeals lying to the District Judge under sub-section (2) from all or any of the decrees or orders of any Munsif shall be preferred to the Court of such Subordinate Judge as may be mentioned in the notification, and the appeal shall thereupon be preferred accordingly.

CHAPTER IV.

SPECIAL JURISDICTION.

22. (1) A District Judge may transfer to any Subordinate Judge under his administrative control any appeals from Munsifs, ^{Power to transfer to Subordinate Judges} appeals pending before him from the decrees or orders of Munsifs.

(2) The District Judge may withdraw any appeal so transferred, and either hear and dispose of it himself, or transfer it to a Court under his administrative control competent to dispose of it.

(3) Appeals transferred under this section shall be disposed of subject to the rules applicable to like appeals when disposed of by the District Judge.

Act XII
of 1887.

23 (1) The High Court may, by general or special order, authorize any Subordinate Judge or Munsif to take cognizance of, or any District Judge to transfer to a Subordinate Judge or Munsif under his administrative control, any of the proceedings next hereinafter mentioned or any class of those proceedings specified in the order.

(2) The proceedings referred to in sub-section (1) are the following, namely :—

- (a) proceedings under Bengal Regulation V., 1799 (to limit the Interference of the Zillah and City Courts of Dewant Adalat in the Execution of Wills and Administration to the Estates of Persons dying intestate) ;
- (b) [Repealed by the Guardians and Wards Act (VIII of 1890)]
- (c) [Repealed by the Succession Certificate Act (VII of 1869)]
- (d) proceedings under the Indian Succession Act, 1865, and the Probate and Administration Act, 1881, which cannot be disposed of by District Delegates, and
- (e) references by Collectors under section 322C of the Code of Civil Procedure.

(3) The District Judge may withdraw any such proceedings taken cognizance of by, or transferred to, a Subordinate Judge or Munsif, and may either himself dispose of them or transfer them to a Court under his administrative control competent to dispose of them.

24. (1) Proceedings taken cognizance of by, or transferred to, = Subordinate Judge or Munsif, as the case may be, under the last foregoing section, shall be disposed of by him subject to the rules applicable to like proceedings when disposed of by the District Judge :

Act XII.
of 1887.

Provided that an appeal from an order of a Munsif in any such proceeding shall lie to the District Judge

(2) An appeal from the order of the District Judge on the appeal from the order of the Munsif under this section shall lie to the High Court if a further appeal from the order of the District Judge is allowed by the law for the time being in force.

25. The Local Government may, by notification in the official Gazette, confer, within such local limits as it thinks fit, upon any Subordinate Judge or Munsif the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, for the trial of suits cognizable by such Courts, up to such value not exceeding five hundred rupees in the case of a Subordinate Judge, or one hundred rupees in the case of a Munsif, as it thinks fit; and may withdraw any jurisdiction so conferred.

CHAPTER V. MISFEASANCE.

26. Any District Judge, Additional Judge, Subordinate Judge or Munsif may, for any misconduct, be suspended or removed by the Local Government.

Suspension or removal
of Judges by Local
Government.

12 BENGAL, N.-W. P., AND ASSAM CIVIL COURTS.

Act XII.
of 1887.

Suspension of Subordinate Judge by High Court.

27. (1) The High Court may, whenever it sees urgent necessity for so doing, suspend a Subordinate Judge.

(2) Whenever the High Court suspends a Subordinate Judge under sub-section (1), it shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order with respect thereto as it thinks fit

Suspension or removal of Munsif by High Court.

of a Munsif.

28. (1) The High Court may appoint a commission for enquiring into an alleged misconduct

(2) On receiving the report of the result of the inquiry, the High Court may, if it thinks fit, remove or suspend the Munsif.

(3) The provisions of Act No. XXXVII. of 1850 (*for regulating Inquiries into the Behaviour of Public Servants*) shall apply to inquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court

(4) The High Court may, before appointing the commission, suspend the Munsif pending the result of the inquiry

(5) The High Court may, without appointing a commission, remove or suspend a Munsif.

29. (1) A District Judge may, whenever he sees urgent necessity for so doing, suspend a Munsif under his administrative control

Suspension of Munsif by District Judge

(2) Whenever a District Judge suspends a Munsif under sub-section (1), he shall forthwith report to the High Court the circumstances of the suspension, and

e High Court shall make such order with respect
 re to as it thinks fit. Act 2
of 18

CHAPTER VI.

MINISTERIAL OFFICERS.

30. District Judges shall appoint the ministerial officers of their Courts, and, subject only to the control of the Local Government, may remove or suspend those officers or fine them in an amount not exceeding one month's salary.

31. (1) The ministerial officers of the Civil Court subject to the administrative control of the District Judge shall be appointed—

(a) in the case of an appointment not likely to last, and not lasting longer than two months, by those Courts, and.

(b) in any other case, by the District Judge.

(2) An Additional Judge, Subordinate Judge or Munsif may, by order, remove or suspend, or fine in an amount not exceeding one month's salary, any ministerial officer of his Court who is guilty of misconduct or neglect in the performance of the duties of his office.

32. The provisions of the two last foregoing sections shall be subject to the following modifications in their application to ministerial officers employed by more Civil Courts than one, namely :—

(a) appointments not likely to last, and not lasting longer than two months, shall be made by the Court of the highest class among those Courts, or, where there is no difference in class among

Act XII.
of 1887.

Suspension of Subordinate Judge by High Court.

27. (1) The High Court may, whenever it sees urgent necessity for so doing, suspend a Subordinate Judge.

(2) Whenever the High Court suspends a Subordinate Judge under sub-section (1), it shall forward with report to the Local Government the circumstances of the suspension, and the Local Government shall make such order with respect thereto as it thinks fit.

Suspension or removal of Munsif by High Court.

28. (1) The High Court may appoint a commission for enquiring into an alleged misconduct of a Munsif.

(2) On receiving the report of the result of inquiry, the High Court may, if it thinks fit, remove or suspend the Munsif.

(3) The provisions of Act No. XXXVII. of 1884 (*for regulating Inquiries into the Behaviour of Public Servants*) shall apply to inquiries under this section the powers conferred by that Act on the Government being exercised by the High Court.

(4) The High Court may, before appointing a commission, suspend the Munsif pending the result of the inquiry.

(5) The High Court may, without appointing a commission, remove or suspend a Munsif.

29. (1) A District Judge may, whenever he sees urgent necessity for so doing, suspend a Munsif under his administrative control.

(2) Whenever a District Judge suspends a Munsif under sub-section (1), he shall forward with report to the High Court the circumstances of the suspension, and

(a) any officer in the Chutia Nagpur, Jalpaiguri, or Darjiling District, or in any part of the territories administered by the Chief Commissioner of Assam, except the district of Silhat, or,

(b) after consultation with the High Court, any officer serving in any other part of the territories to which this Act extends, and belonging to a class defined in this behalf by the Local Government with the previous sanction of the Governor-General in Council.

(2) Nothing in sections 4 to 8 (both inclusive), or sections 10 to 12 (both inclusive), or sections 27 to 35 (both inclusive) applies to any officer so invested, but the other provisions of this Act shall, so far as those provisions can be made applicable, apply to him as if he were a Judge of the Court with the powers of which he is invested.

(3) Where, in the territories mentioned in clause (a) of sub-section (1) the same local jurisdiction is assigned to two or more officers invested with the powers of a Munsif, the officer invested with the powers of a District Judge may, with the previous sanction of the Local Government, delegate his functions under sub-section (2) of section 13 to an officer invested with the powers of a Subordinate Judge or to one of the officers invested with the powers of a Munsif.

(4) Where the place at which the Court of an officer invested with powers under sub-section (1) is to be held has not been fixed under section 14, the Court may be held at any place within the local limits of its jurisdiction.

Act XII.
of 1887.

37. (1) Where in any suit or other proceeding is necessary for a Civil Court to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, or where the parties to the suit are Muhammadans, and the Hindu law in cases where the parties are Hindus, shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished.

(2) In cases not provided for by sub-section (1) or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

38. (1) The presiding officer of a Civil Court shall not try any suit or other proceeding in which they are interested to which he is a party or in which he is personally interested.

(2) The presiding officer of an Appellate Court under this Act shall not try an appeal against a decree or order passed by himself in another capacity.

(3) When any such suit, proceeding, or appeal is referred to in sub-section (1) or sub-section (2) comes before any such officer, the officer shall forthwith transmit the record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

(4) The superior Court shall thereupon dispose of the case under section 25 of the Code of Civil Procedure.

(5) Nothing in this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

39. For the purposes of the last foregoing section **Act XII.**
subordination of the presiding officer of a Court of District Judges **of 1887.**

control of the
 immediately
 Judge, and, for the purposes of the Code of Civil
 Procedure, the Court of such an officer shall be
 deemed to be of a grade inferior to that of the Court
 the District Judge.

40. (1) This section and sections 15, 32, 37, 38
application of Act to Provincial Courts of all Causes. and 39 apply to Courts of Small
 Causes constituted under the
 Provincial Small Cause Courts
 Act, 1887.

(2) Save as provided by that Act. the other sec-
 tions of this Act do not apply to those Courts.

ACT IX. OF 1887.

Provincial Small Cause Courts Act.

RECEIVED THE G.-G.'S ASSENT ON 24TH FEBRUARY
1887.

*An Act to consolidate and amend the law relating to
Courts of Small Causes established beyond the
Presidency towns.*

WHEREAS it is expedient to consolidate and amend
the law relating to Courts of Small Causes establish-
ed beyond the local limits, for the time being, of the
ordinary original civil jurisdiction of the High
Courts of Judicature at Fort William in Bengal and
at Madras and Bombay : It is hereby enacted as
follows :—

CHAPTER I.

PRELIMINARY.

Title, extent, and
commencement.

1. (1) This Act may be called
the Provincial Small Cause
Courts Act, 1887 ;

(2) It extends to the whole of British India ; and

(3) It shall come into force on the first day of
July 1887.

2. (1) [*Repeal of enactments.*] Repealed by Act
XII. of 1891.

(2) All Courts constituted, limits fixed, places
appointed, appointments, declara-
tions, and rules made, jurisdic-
tion.

— Act IX. of 1887—1.

Act IX. of 1887. forms prescribed, directed, published, under Act to create, constitute, constitute and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature), or under any enactment repealed by that Act, shall, so far as may be, be deemed to have been respectively constituted, fixed, appointed, made, conferred, prescribed, given, and published under this Act.

(3) Any enactment or document referring to Act No. XI. of 1865, or to any enactment thereby repealed, shall, so far as may be, be construed to refer to this Act, or to the corresponding portion thereof.

Savings. 3. Nothing in this Act shall be construed to affect—

- (a) any proceedings before or after decree in any suit instituted before the commencement of this Act ; or
- (b) the jurisdiction of a Magistrate under any law for the time being in force with respect to debts or other claims of a civil nature, or of Village Munsifs or Village Pancháyats under the provisions of the Madras Code, or of Village Munsifs under the Deccan Agriculturists' Relief Act, 1879 ; or
- (c) any local law or any special law other than the Code of Civil Procedure.

Definition 4. In this Act, unless there is something repugnant in the subject or context "Court of Small Causes" means a Court of Small Causes constituted under this Act, and includes any person exercising jurisdiction under this Act in any such Court.

CHAPTER II.

Act IX.
of 1887.

CONSTITUTION OF COURTS OF SMALL CAUSES.

5. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, by order in writing, establish a Court of Small Causes at any place within the territories under its administration beyond the local limits, for the time being, of the ordinary original civil jurisdiction of a High Court of Judicature established in a Presidency town.

(2) The local limits of the jurisdiction of the Court of Small Causes shall be such as the Local Government may define, and the Court may be held at such place or places within those limits as the Local Government may appoint.

6. (1) When a Court of Small Causes has been established, the Local Government shall, by order in writing, appoint a Judge of the Court.

(2) The Judge may be the Judge of one Court of Small Causes, or of two or more such Courts, as the Local Government directs.

7. (1) A Judge who is the Judge of two or more such Courts may, with the sanction of the District Court, fix the times at which he will sit in each of the Courts of which he is Judge.

(2) Notice of the times shall be published in such manner as the High Court from time to time directs.

8. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, by order, appoint an Additional Judge.

Act IX. of 1887. order in writing, appoint an Additional Judge of a Court of Small Causes or of two or more such Courts.

the Judge.

(3) The Judge may withdraw from the Additional Judge any business pending before him.

(4) When the Judge is absent, the Additional Judge may discharge all or any of the functions of the Judge.

9. A Judge or Additional Judge of a Court of Small Causes may be suspended or removed from office by the Local Government.

10. The Local Government, after consultation with the High Court, may, by order in writing, direct that two Judges of Courts of Small Causes, or a Judge and an Additional Judge, sit as a bench.

11. (1) If two Judges, or a Judge and an Additional Judge, sitting together differ as to the force of law, the construction of a statute, or the drawing up and reter, for the decision of the High Court, a statement of the facts of the case, and of the point on which they differ in opinion, and the provisions of

Chapter XLVI. of the Code of Civil Procedure shall apply to the reference. Act IX.
of 1887.

(2) If they differ on any matter other than a matter specified in sub-section 1, the opinion of the Judge who is senior in respect of date of appointment as Judge of a Court of Small Causes, or, if one of them is an Additional Judge, then the opinion of the Judge sitting with him, shall prevail.

(3) For the purposes of sub-section 2, a Judge permanently appointed shall be deemed to be senior to an officiating Judge.

12. (1) The Local Government may appoint to a Court of Small Causes an officer to be called the Registrar of the Court.

(2) Where a Registrar is appointed, he shall be the chief ministerial officer of the Court.

(3) The Local Government may, by order in writing, confer upon a Registrar, within the local limits of the jurisdiction of the Court, the jurisdiction of a Judge of a Court of Small Causes for the trial of suits of which the value does not exceed twenty rupees.

(4) The Registrar shall try such suits cognizable by him as the Judge may, by general or special order, direct.

(5) A Registrar may be suspended or removed from office by the Local Government.

13. Subject to any enactment for the time being in force, and to any orders made by the Local Government in this behalf, the law or practice for the time being applicable to the appointment, punishment, and transfer of ministerial officers of a Civil Court of the lowest

Act IX. of 1887. grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which a Court of Small Causes is established shall, so far as it can be made applicable, apply to the appointment, punishment, and transfer of ministerial officers of the Court of Small Causes other than the Registrar (if any) of that Court.

14. (1) The ministerial officers of a Court of Small Causes shall, in addition to any duties mentioned in this Act or in any other enactment for the time being in force, as duties which are or may be imposed on any of them, discharge such duties of a ministerial nature as the Judge directs.

(2) The High Court may make rules consistent with this Act, and with any other enactment for the time being in force, conferring and imposing, on the ministerial officers of a Court of Small Causes, such powers and duties as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed.

CHAPTER III.

JURISDICTION OF COURTS OF SMALL CAUSES.

15. (1) A Court of Small Causes shall not take Cognizance of suits cognizance of the suits specified by Courts of Small Causes in the second schedule as suits excepted from the cognizance of a Court of Small Causes.

(2) Subject to the exceptions specified in that schedule, and to the provisions of any enactment for the time being in force, all suits of a civil nature, of

which the value does not exceed five hundred rupees, shall be cognizable by a Court of Small Causes.

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of 1887.

(3) Subject as aforesaid, the Local Government may, by order in writing, direct that all suits of a civil nature, of which the value does not exceed one thousand rupees, shall be cognizable by a Court of Small Causes mentioned in the order.

16 Save as expressly provided by this Act, or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried within the jurisdiction of the Court of Small Causes.

CHAPTER IV.

PRACTICE AND PROCEDURE.

17. (1) The procedure prescribed in the chapters and sections of the Code of Civil Procedure specified in the second schedule to that Code shall, so far as may be applicable, be the rule in all cases in proceedings arising out of such suits:

Provided that an applicant for an order to set aside a decree passed *ex parte*, or for a review of judgment, shall, at the time of presenting his application, either deposit in the Court the amount due from him under the decree or in pursuance of the judgment, or give security to the satisfaction of the Court for the performance of the decree or compliance with the judgment, as the Court may direct.

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of 1887.

(2) Where a person has become liable as surety under the proviso to sub-section 1, the security may be realized in manner provided by section 253 of the Code of Civil Procedure.

18. (1) Suits cognizable by the Registrar under Trial of suits by section 12, sub-sections 3 and 4, Registrar. shall be tried by him, and decrees passed therein shall be executed by him in like manner in all respects as the Judge might try the suits, and execute the decrees respectively.

(2) The Judge may transfer to his own file, or to that of the Additional Judge, if an Additional Judge has been appointed, any suit or other proceeding pending on the file of the Registrar.

19. (1) When the Judge of a Court of Small Admission, return, Causes is absent, and an Additional Judge has not been appointed, and rejection of tional Judge has not been appointed, and rejection of tional Judge has not been appointed, ed, or, having been appointed, is also absent, the Registrar may admit a plaint, or return or reject a plaint for any reason for which the Judge might return or reject it.

(2) The Judge may, of his own motion, or on the application of a party, return or reject a plaint which has been admitted by the Registrar, or admit a plaint which has been returned or rejected by him.

Provided that, where a party applies for the return or rejection or the admission of a plaint under this sub-section, and his application is not made at the first sitting of the Judge after the day on which the Registrar admitted or return or rejected the plaint, the Judge shall dismiss the application, unless the applicant satisfies him that there was sufficient cause for not making the application at that sitting.

20. (1) If before the date appointed for the hearing of the application, the Registrar is absent, and the Judge is also absent, the Registrar may, subject to any instructions which he may have received from the Judge, or, with respect to decrees or orders made by an Additional Judge, from the Additional Judge, make any orders in respect of applications for the execution of decrees and orders made by the Court of which he is Registrar, or sent to that Court for execution, which the Judge might make under this Act.

(2) Where a decree has been passed by the Registrar under sub-section 1, the Judge may grant an application for review of judgment, and re-hear the suit, on the same conditions, on the same grounds, and in the same manner, as if the decree had been passed by himself.

21. (1) If the Judge is absent, and an Additional Judge has not been appointed, or, having been appointed, is also absent, the Registrar may, subject to any instructions which he may have received from the Judge, or, with respect to decrees or orders made by an Additional Judge, from the Additional Judge, make any orders in respect of applications for the execution of decrees and orders made by the Court of which he is Registrar, or sent to that Court for execution, which the Judge might make under this Act.

(2) The Judge, in the case of any decree or order with respect to the execution of which the Registrar has made an order under sub-section 1, or the Additional Judge, in the case of any such decree or order which has been made by himself, and with respect to which proceedings have not been taken by the Judge under this sub-section, may, of his own motion, or on application made by a party within fif-

Act IX. of 1887. teen days from the date of the order of the Registrar, or of the execution of any process issued in pursuance of that order, reverse or modify the order.

(3) The period of fifteen days mentioned in subsection 2 shall be computed in accordance with the provisions of the Indian Limitation Act, 1877, as though the application of the party were an application for review of judgment.

22. When the Judge of a Court of Small Causes is absent, and an Additional Judge has not been appointed, or, having been appointed, is also absent, the Registrar or other chief ministerial officer of the Court may exercise, from time to time, the power which the Court possesses of adjourning the hearing of any suit or other proceeding, and fix a day for the further hearing thereof.

23. (1) Notwithstanding anything in the foregoing portion of this Act, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immoveable property or other title which such a Court cannot finally determine, the Court may, at any stage of the proceedings, return the plaint to be presented to a Court having jurisdiction to determine the title.

(2) When a Court returns a plaint under subsection 1, it shall comply with the provisions of the second paragraph of section 57 of the Code of Civil Procedure, and make such order with respect to costs as it deems just: and the Court shall, for the purposes of the Indian Limitation Act, 1877, be deemed to have been unable to entertain the suit by

reason of a cause of a nature like to that of defect of jurisdiction. Act IX. of 1887.

24. Where an order specified in section 588, clause 29, of the Code of Civil Procedure, is made by a Court of Small Causes, an appeal therefrom shall lie to the District Court.

25. The High Court, for the purpose of satisfying itself that a decree or order made in any case decided by a Court of Small Causes was according to law, may call for the case, and pass such order with respect thereto as it thinks fit.

26. *[Repealed by Act X. of 1888, s. 4.]*

27. Save as provided by this Act, a decree or order made under the foregoing provisions of this Act by a Court of Small Causes shall be final.

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

28. (1) A Court of Small Causes shall be subject to the administrative control of the District Court, and to the superintendence of the High Court, and shall—

(a) keep such registers, books, and accounts as the High Court from time to time prescribes, and

(b) comply with such requisitions as may be made by the District Court, the High Court or the Local Government, for records, returns, and statements, in such

Act IX.
of 1887.

form and manner as the authority making the requisition directs.

(2) The relation of the District Court to a Court of Small Causes with respect to administrative control shall be the same as that of the District Court to a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which the Court of Small Causes is established.

29. A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Local Government.

30. The Local Government may, by order in writing, abolish a Court of Small Causes.

31. (1) Nothing in this Act shall be construed to prevent the Local Government from appointing a person, who is a Judge or Additional Judge of a Court of Small Causes, to be also a Judge of any other Civil Court, or to be a Magistrate of any class, or to hold any other public office.

(2) When a Judge or Additional Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Local Government may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.

Application of Act to
Courts invested with
jurisdiction of Court
of Small Causes

32. (1) So much of Chap- Act IX.
ters III. and IV. as relates to— of 1887.

- (a) the nature of the suits cognizable by Courts of Small Causes,
- (b) the exclusion of the jurisdiction of other Courts in those suits,
- (c) the practice and procedure of Courts of Small Causes,
- (d) appeal from certain orders of those Courts and revision of cases decided by them, and
- (e) the finality of their decrees and orders subject to such appeal and revision as are provided by this Act,

applies to Courts invested, by or under any enactment for the time being in force, with the jurisdiction of a Court of Small Causes, so far as regards the exercise of that jurisdiction by those Courts.

(2) Nothing in sub-section 1, with respect to Courts invested with the jurisdiction of a Court of Small Causes, applies to suits instituted, or proceedings commenced, in those Courts before the date on which they were invested with that jurisdiction,

33. A Court invested with the jurisdiction of a Court of Small Causes with respect to the exercise of that jurisdiction, and the same Court with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall,

Application of Act
and Code to Court so
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Act IX.
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Application of Act to Courts invested with jurisdiction of Court of Small Causes

- (a) the nature of the suits cognizable by Courts of Small Causes,
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(2) When a Judge or Additional Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Local Government may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.

(14) a suit to recover, from a person to whom compensation has been paid under the Land Acquisition Act, 1894, the whole or any part of the compensation ;

(15) a suit for the specific performance or rescission of a contract ;

(16) a suit for the rectification or cancellation of an instrument ,

(17) a suit to obtain an injunction ;

(18) a suit relating to a trust, including a suit to make good, out of the general estate of a deceased trustee, the loss occasioned by a breach of trust, and a suit by a co-trustee to enforce, against the estate of a deceased trustee, a claim for contribution ,

(19) a suit for a declaratory decree, not being a suit instituted under section 283 or section 332 of the Code of Civil Procedure .

(20) a suit instituted under section 283 or section 332 of the Code of Civil Procedure

(21) a suit to set aside an attachment by a Court or a revenue authority, or a sale, mortgage, lease, or other transfer by a Court or a revenue-authority, or by a guardian .

(22) a suit for property which the plaintiff has conveyed while insane ,

(23) a suit to alter or set aside a decision, decree, or order of a Court, or of a person acting in a judicial capacity ,

(24) a suit to contest an award

(25) a suit upon a foreign judgment as defined in the Code of Civil Procedure or upon a judgment obtained in British India ,

(26) a suit to compel a refund of assets improperly distributed under section 295 of the Code of Civil Procedure

(27) a suit under the Indian Succession Act 1865 section 320 or section 321 or under the Probate and Administration Act, 1881, section 139 or section 140 to compel a refund by a person to whom an executor or administrator has paid a legacy, or distributed assets

Act IX. by order of the Governor-General in Council or a Local Government of 1887. Government ;

(2) a suit concerning an act purporting to be done by any person in pursuance of a judgment or order of a Court, or of a judicial officer acting in the execution of his office ;

(3) a suit concerning an act or order purporting to be done or made by any other officer of the Government in his official capacity or by a Court of Wards, or by an officer of a Court of Wards in the execution of his office ;

(4) a suit for the possession of immoveable property, or for the recovery of an interest in such property ;

(5) suit for the partition of immoveable property ;

(6) a suit by a mortgagee of immoveable property for the sale of the property for the

(7) a suit for the assessment, enhancement, abatement, or apportionment of the rent of immoveable property ;

(8) a suit for the recovery of rent, other than house rent, unless the Judge of the Court of Small Causes has been expressly invested by the Local Government with authority to exercise jurisdiction with respect thereto ,

(9) a suit concerning the liability of land to be assessed to land-revenue ,

(10) a suit to restrain waste ,

(11) a suit for the determination or enforcement of any other right to, or interest in, immoveable property ;

(12) a suit for the possession of an hereditary office, or of an interest in such an office, including a suit to establish an exclusive or periodically-recurring right to discharge the functions of an office ;

(13) a suit to enforce payment of the allowance or fees respectively called *maikhana* and *hak* or of cesses or other dues when the cesses or dues are payable to a person by reason of his interest in immoveable property, or in an hereditary office, or in a shrine or other religious institution ;

- (i) for obstruction of an easement or diversion of a water-course ;
- (j) for illegal, improper, or excessive distress or attachment ;
- (k) for improper arrest under Chapter XXXIV of the Code of Civil Procedure, or in respect of the issue of an injunction wrongfully obtained under Chapter XXXV. of that Code ; or
- (l) for injury to the person in any case not specified in the foregoing sub-clauses of this clause ;

(36) a suit by a Mahomedan for exigible (*mu'ajjal*) or deferred (*mu'v'ajjal*) dower ,

(37) a suit for the restitution of conjugal rights, for the recovery of a wife, for the custody of a minor, or for a divorce ;

(38) a suit relating to maintenance ,

(39) a suit for arrears of land-revenue, village-expenses, or other sums payable to the representative of a village-community, or to his heir or other successor in title ,

(40) a suit for profits payable by the representative of a village-community, or by his heir or other successor in title, after payment of land revenue, village expenses, and other sums ,

(41) a suit for contribution by a sharer in joint property in respect of a payment made by him of money due from a co-sharer or by a manager of joint property, or a member of an undivided family, in respect of a payment made by him on account of the property or family ,

(42) a suit by one of several joint mortgagors of immoveable property for contribution in respect of money paid by him for the redemption of the mortgaged property ,

(43) a suit against the Government to recover money paid under protest in satisfaction of a claim made by a revenue authority on account of an arrear of land revenue or of a demand recoverable as an arrear of land-revenue ,

(44) a suit the cognizance whereof by a Court of Small Causes is barred by any enactment for the time being in force,

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(29) a suit—

(a) for a dissolution of partnership, or for the winding-up of the business of a partnership after its dissolution ,

(b) for an account of partnership-transactions ; or

(c) for a balance of partnership-account, unless the balance has been struck by the parties or their agents ,

(30) a suit for an account of property, and for its due administration under decree ,

(31) any other suit for an account, including a suit by a mortgagor, after the mortgage has been satisfied, to recover surplus collections received by the mortgagee, and a suit for the profits of immoveable property belonging to the plaintiff which have been wrongfully received by the defendant ,

(32) a suit for a general average loss or for salvage ,

(33) a suit for compensation in respect of collision between ships ,

(34) a suit on a policy of insurance, or for the recovery of any premium paid under any such policy ,

(35) a suit for compensation—

(a) for loss occasioned by the death of a person caused by actionable wrong ,

(b) for wrongful arrest, restraint, or confinement ;

(c) for malicious prosecution ,

(d) for libel ;

(e) for slander ;

(f) for adultery or seduction ;

(g) for breach of contract of betrothal or promise of marriage ;

(h) for inducing a person to break a contract made with the plaintiff ;

NEW

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ACT V OF 1908.

FIRST EDITION

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THE CODE OF CIVIL PROCEDURE, 1908.

(PRELIMINARY.)

An Act to consolidate and amend the laws relating to the procedure of the Courts of Civil Judicature.

WHEREAS it is expedient to consolidate and amend the laws relating to the procedure of the Courts of Civil Judicature : It is hereby enacted as follows :—

PRELIMINARY.

Short title, com-
mencement and extent.

1. (1) This Act may be cited as the Code of Civil Procedure, 1908.

(2) It shall come into force on the first day of January, 1909.

(3) This section and sections 155 to 158 extend to the whole of British India : the rest of the Code extends to the whole of British India, except the Scheduled Districts.

2. In this Act, unless there is anything repugnant
Definitions in the subject or context,—

(1) "Code" includes rules :

(2) "decree" means the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final. It shall be deemed to include the rejection of a plaint and the determination of any question within section 47 or section 144 but shall not include—

(a) any adjudication from which an appeal lies as an appeal from an order, or

(b) any order of dismissal for default.

Explanation.—A decree is preliminary when further proceedings have to be taken before the suit can be completely disposed of. It is final when such adjudication completely disposes of the suit. It may be partly, preliminary and partly final :

(3) "decree-holder" means any person in whose favour a decree has been passed or an order capable of execution has been made :

(4) "district" means the local limits of the jurisdiction of a principal Civil Court of original jurisdiction (hereinafter called a "District Court"), and includes the local limits of the ordinary original civil jurisdiction of a High Court :

(5) "foreign Court" means a Court situate beyond the limits of British India which has no authority in British India and is not established or continued by the Governor-General in Council :

(6) "foreign judgment" means the judgment of a foreign Court :

(7) "Government Pleader" includes any officer appointed by the Local Government to perform all or any of the functions expressly imposed by this Code on the Government Pleader and also any pleader acting under the directions of the Government Pleader :

(8) "Judge" means the presiding officer of a Civil Court :

(9) "judgment" means the statement given by the Judge of the grounds of a decree or order :

(10) "Judgment-debtor" means any person against whom a decree has been passed or an order capable of execution has been made :

(11) "legal representative" means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative

character the person on whom the estate devolves on the death of the party so suing or sued :

(12) "mesne profits" of property means those profits which the person in wrongful possession of such property actually received or might with ordinary diligence have received therefrom, together with interest on such profits, but shall not include profits due to improvements made by the person in wrongful possession :

(13) "moveable property" includes growing crops :

(14) "order" means the formal expression of any decision of a Civil Court which is not a decree :

(15) "pleader" means any person entitled to appear and plead for another in Court, and includes an advocate, a vakil and an attorney of a High Court :

(16) "prescribed" means prescribed by rules :

(17) "public officer" means a person falling under any of the following descriptions, namely :—

(a) every Judge ;

(b) every member of the Indian Civil Service ;

(c) every commissioned or gazetted officer in the military or naval forces of His Majesty, including His Majesty's Indian Marine Service while serving under the Government ;

(d) every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make authentic or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order, in the Court, and every person especially authorized by a Court of Justice to perform any of such duties ;

(e) every person who holds any office by virtue of which he is empowered to place or keep any person in confinement ;

(f) every officer of the Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience ;

(g) every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government, or to execute any revenue-process, or to investigate, or to report on, any matter affecting the pecuniary interests of the Government, or to make, authenticate or keep any document relating to the pecuniary interests of the Government, or to prevent the infraction of any law for the protection of the pecuniary interest of the Government ; and

(h) every officer in the service or pay of the Government, or remunerated by fees or commission for the performance of any public duty :

(18) "rules" means rules and forms contained in the First Schedule or made under section 122 or section 125 :

(19) "share in a corporation" shall be deemed to include stock, debenture stock, debentures or bonds ; and

(20) "signed," save in the case of a judgment or decree, includes stamped.

3. For the purposes of this Code, the District Court ^{Subordination} is subordinate to the High Court, and ^{Courts} every Civil Court of a grade inferior to that of a District Court and every Court of Small Causes is subordinate to the High Court and District Court.

4. (1) In the absence of any specific provision to the ^{Effect} contrary, nothing in this Code shall be deemed to limit or otherwise affect any special or local law now in force or any special jurisdiction or power conferred, or any special form of procedure prescribed, by or under any other law for the time being in force.

(2) In particular and without prejudice to the generality of the proposition contained in sub-section (1), nothing in this Code shall be deemed to limit or otherwise affect any remedy which a landholder or landlord may have under any law for the time being in force for the recovery of rent of agricultural land from the produce of such land:

5. (1) Where any Revenue Courts are governed by the provisions of this Code in those matters of procedure upon which any special enactment applicable to them is silent, the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, declare that any portions of those provisions which are not expressly made applicable shall only Govern-

(2) "Revenue Court" in sub-section (1) means a Court having jurisdiction under any local law to entertain suits or other proceedings relating to the rent, revenue or profits of land used for agricultural purposes, but does not include a Civil Court having original jurisdiction under this Code to try such suits or proceedings as being suits or proceedings of a civil nature.

6. Save in so far as is otherwise expressly provided, nothing herein contained shall operate to give any Court jurisdiction over suits the amount or value of the subject-matter of which exceeds the pecuniary limits (if any) of its ordinary jurisdiction.

7. The following provisions shall not extend to Courts constituted under the Provincial Small Causes Courts Act, 1887, (IX of 1887) or to Courts exercising the jurisdiction of a Court of Small Causes under that Act, that is to say,—

- (a) so much of the body of the Code as relates to—
- (i) suits excepted from the cognizance of a Court of Small Causes ;
 - (ii) the execution of decrees in such suits ;
 - (iii) the execution of decrees against immoveable property ; and
- (b) the following sections, that is to say,—
- section 9,
 - sections 91 and 92,
 - sections 94 and 95 so far as they relate to injunctions and interlocutory orders, and sections 96 to 112 and 115.

8. Says as provided in sections 24, 38 to 41, 75, Presidency Small Cause Courts clauses (a), (b) and (c), 76, 77 and 155 to 158, and by the Presidency Small Cause Courts Act, 1882, (XV. of 1882) the provisions in the body of this Code shall not extend to any suit or proceeding in any Court of Small Causes established in the towns of Calcutta, Madras and Bombay

PART I.

SUITS IN GENERAL.

JURISDICTION OF THE COURTS AND RES JUDICATA.

9. The Courts shall (subject to the provisions herein Courts to try all civil suits unless barred. contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.

Explanation—A suit in which the right to property or an office is contested is a suit of a civil nature. not the

10. No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or be-

Stay of suit.

tween parties under whom they or any of them claim, litigating under the same title where such suit is pending in the same or any other Court in British India having jurisdiction to grant the relief claimed, or in any Court beyond the limits of British India established or continued by the Governor-General in Council and having like jurisdiction, or before His Majesty in Council.

Explanation.—The pendency of a suit in a foreign Court does not preclude the Courts in British India from trying a suit founded on the same cause of action.

✓ 11. No Court shall try any suit or issue in which the matter directly and substantially in issue ^{has been directly and substantially in} issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.

Explanation I.—The expression “former suit” shall denote a suit which has been decided prior to the suit in question whether or not it was instituted prior thereto.

Explanation II.—For the purposes of this section, the competence of a Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court.

Explanation III.—The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.

Explanation IV.—Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

Explanation V.—Any relief claimed in the plaint, which is not expressly granted by the decree, shall, for the purposes of this section, be deemed to have been refused.

Explanation VI.—Where persons litigate *bona fide* in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating.

12. Where a plaintiff is precluded by rules from instituting a further suit in respect of any particular cause of action, he shall not be entitled to institute a suit in respect of such cause of action in any Court to which this Code applies.

13. A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or between parties under whom they or any of them claim litigating under the same title except—

- (a) where it has not been pronounced by a Court of competent jurisdiction ;
- (b) where it has not been given on the merits of the case ;
- (c) where it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognise the law of British India in case in which such law is applicable ;
- (d) where the proceedings in which the judgment was obtained are opposed to natural justice.
- (e) where it has been obtained by fraud ;
- (f) where it sustains a claim founded on a breach of any law in force in British India.

14. The Court shall presume, upon the production of any document purporting to be a certified copy of a foreign judgment, that such judgment was pronounced by a Court of competent jurisdiction, unless the contrary appears on the record ; but such presumption may be displaced by proving want of jurisdiction.

PLACE OF SUING.

15. Every suit shall be instituted in the Court of the lowest grade competent to try it.

Court in which suits
to be instituted

Suits to be instituted
where subject
situate

Suits to be instituted in the Court of the lowest grade competent to try it.

any law, suits—

- (a) property with or without rent or profits,
- (b) for the partition of immoveable property,
- (c) for foreclosure, sale or redemption in the case of a mortgage of or charge upon immoveable property,
- (d) for the determination of any other right to or interest in immoveable property,
- (e) for compensation for wrong to immoveable property,
- (f) for the recovery of moveable property actually under dstraint or attachment,

shall be instituted in the Court within the local limits of whose jurisdiction the property is situate :

Provided that a suit to obtain relief respecting, or compensation for wrong to, immoveable property held by or on behalf of the defendant may, where the relief sought can be entirely obtained through his personal obedience, be instituted either in the Court within the local limits of whose jurisdiction the defendant actually and voluntarily resides, or carries on business, or personally works for gain.

Explanation.—In this section “property” means property situate in British India.

17. Where a suit is to obtain relief respecting, or compensation for wrong to, immoveable property situate within the jurisdiction of different Courts, the suit may be instituted in any Court within the local

Suits for immoveable
property situate within
jurisdiction of different
Courts.

limits of whose jurisdiction any portion of the property is situate :

Provided that, in respect of the value of the subject-matter of the suit, the entire claim is cognizable by such Court.

18. (1) Where it is alleged to be uncertain within the local limits of the jurisdiction of which of two or more Courts any immoveable property is situate, any one of those Courts may, if satisfied that there is ground for the alleged uncertainty, record a statement to that effect and thereupon proceed to entertain and dispose of any suit relating to that property, and its decree in the suit shall have the same effect as if the property were situate within the local limits of its jurisdiction :

Place of institution of suit where local limits of jurisdiction of Courts are uncertain

Provided that the suit is one with respect to which the Court is competent as regards the nature and value of the suit to exercise jurisdiction.

(2) Where a statement has not been recorded under sub-section (1), and an objection is taken before an appellate or revisional Court that a decree or order in a suit relating to such property was made by a Court not having jurisdiction where the property is situate, the appellate or revisional Court shall not allow the objection unless in its opinion there was, at the time of the institution of the suit, an uncertainty as to the Court thereto and there has been

19. Where a suit is for compensation for wrong done to the person or to moveable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the suit may be instituted at the option of the plaintiff in either of the said Courts.

Suits for compensation for wrongs to persons or moveables.

Illustrations.

(a) A, residing in Delhi, beats B in Calcutta. B may sue A either in Calcutta or in Delhi.

(b) A, residing in Delhi, publishes in Calcutta statements defamatory of B. B may sue A either in Calcutta or in Delhi.

Other suits to be instituted where defendant resides or carries on business.

20. Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose

jurisdiction—

- (a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain : or
- (b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution ; or
- (c) the cause of action, wholly or in part, arises.

Explanation I—Where a person has a permanent dwelling at one place and also a temporary residence at another place, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary residence.

Explanation II—A corporation shall be deemed to carry on business at its sole or principal office in British India or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.

Illustrations.

(a) A is a tradesman in Calcutta. B carries on business in Delhi. B, by his agent in Calcutta, buys goods of A and requests A to deliver them to the East Indian Railway Company. A delivers the goods accordingly

in Calcutta. A may sue B for the price of the goods either in Calcutta, where the cause of action has arisen, or in Delhi, where B carries on business.

(b) A resides at Simla, B at Calcutta and C at Delhi. A, B and C being together at Benares, B and C make a joint promissory note payable on demand, and deliver it to A. A may sue B and C at Benares, where the cause of action arose. He may also sue them at Calcutta, where B resides or at Delhi, where C resides ; but in each of these cases, if the non-resident defendant objects, the suit cannot proceed without the leave of the Court.

21. No. objection as to the place of suing shall be allowed by any appellate or revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, and unless there has been a consequent failure of justice.

22. Where a suit may be instituted in any one of two or more Courts and is instituted in one of such Courts, any defendant, after notice to the other parties may, at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, apply to have the suit transferred to another Court, and the Court to which such application is made, after considering the objections of the other parties (if any), shall determine in which of the several Courts having jurisdiction the suit shall proceed.

23. (1) Where the several Courts having jurisdiction are subordinate to the same Appellate Court, an application under section 22 shall be made to the Appellate Court.

(2) Where such Courts are subordinate to different Appellate Courts but to the same High Court, the application shall be made to the said High Court.

(3) Where such Courts are subordinate to different High Courts, the application shall be made to the High Court within the local limits of whose jurisdiction the Court in which the suit is brought is situate.

24. (1) On the application of any of the parties and ^{general power of} after notice to the parties and after hear- ^{transfer suit withdrawn} ing such of them as desire to be heard, or of its own motion without such notice, the High Court or the District Court may at any stage—

(a) transfer any suit, appeal or other proceeding pending in any Court of the same, or

(b) withdraw any suit, appeal or other proceeding in any Court subordinate to it, and

(i) try or dispose of the same; or

(ii) transfer the same for trial or disposal to any Court subordinate to it and competent to try or dispose of the same; or

(iii) retransfer the same for trial or disposal to the Court from which it was withdrawn.

(2) Where any suit or proceeding has been transferred or withdrawn under sub-section (1), the Court which thereafter tries such suit may, subject to any special directions in the case of an order of transfer, either retry it or proceed from the point at which it was transferred or withdrawn.

(3) For the purposes of this section, Courts of Additional and Assistant Judges shall be deemed to be subordinate to the District Court.

(4) The Court trying any suit transferred or withdrawn under this section from a Court of Small Causes shall, for the purposes of such suit, be deemed to be a Court of Small Causes.

25. (1) Where any party to a suit, appeal or other proceeding pending in a High Court presided over by a single Judge objects to its being heard by him and the Judge is satisfied that there are reasonable grounds for the objection, he shall make a report to the Governor-General in Council, who may, by notification in the Gazette of India, transfer such suit, appeal or proceeding to any other High Court.

(2) The law applicable to any suit, appeal or proceeding so transferred shall be the law which the Court in which the suit, appeal or proceeding was originally instituted ought to have applied to such case.

INSTITUTION OF SUITS.

26. Every suit shall be instituted by the presentation of a plaint or in such other manner as may be prescribed.

SUMMONS AND DISCOVERY.

27. Where a suit has been duly instituted, a summons may be issued to the defendant to appear and answer the claim and may be served in manner prescribed.

28. (1) A summons may be sent for service in another province to such Court and in such manner as may be prescribed by rules in force in that province.

(2) The Court to which such summons is sent shall, upon receipt thereof, proceed as if it had been issued by such Court and shall then return the summons to the Court of issue together with the record (if any) of its proceedings with regard thereto.

29. Summonses issued by any Civil or Revenue Court situate beyond the limits of British India may be sent to the Courts in British India and served as if they had been issued by such Courts :

Provided that the Courts issuing such summonses have been established or continued by the authority of the Governor-General in Council, or that the Governor-General in Council has, by notification in the Gazette of India, declared the provisions of this section to apply to such Courts.

30. Subject to such conditions and limitations as may be prescribed, the Court may, at any time, either of its own motion or on the application of any party,—

- (a) make such orders as may be necessary or reasonable in all matters relating to the delivery and answering of interrogatories, the admission of documents and facts, and the discovery, inspection, production, impounding and return of documents or other material objects producible as evidence ;
- (b) issue summonses to persons whose attendance is required either to give evidence or to produce documents or such other objects as aforesaid ;
- (c) order any fact to be proved by affidavit.

31. The provision in sections 27, 28 and 29 shall ^{summones to witness} apply to summonses to give evidence or to produce documents or other material objects.

32. The Court may compel the attendance of any ^{person for default} person to whom a summons has been issued under section 30 and for that purpose may—

- (a) issue a warrant for his arrest ;
- (b) attach and sell his property ;
- (c) impose a fine upon him not exceeding five hundred rupees ;
- (d) order him to furnish security for his appearance and in default commit him to the civil prison.

JUDGMENT AND DECREE

33. The Court, after the case has been heard, shall
Judgment and decree pronounce judgment, and on such judgment a decree shall follow.

INTEREST.

34. (1) Where and in so far as a decree is for the
Interest. payment of money, the Court may, in the decree, order interest at such rate as the Court deems reasonable to be paid on the principal sum adjudged, from the date of the suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the institution of the suit, with further interest at such rate as the Court deems reasonable on the aggregate sum so adjudged, from the date of the decree to the date of payment, or to such earlier date as the Court thinks fit.

(2) Where such a decree is silent with respect to the payment of further interest on such aggregate sum as aforesaid from the date of the decree to the date of payment or other earlier date, the Court shall be deemed to have refused such interest, and a separate suit therefor shall not lie.

COSTS.

35. (1) Subject to such conditions and limitations as
Costs. may be prescribed, and to the provisions of any law for the time being in force, the costs of and incident to all suits shall be in the discretion of the Court, and the Court shall have full power to determine by whom or out of what property and to what extent such costs are to be paid, and to give all necessary directions for the purpose aforesaid. The fact that the Court has no jurisdiction to try the suit shall be no bar to the exercise of such powers.

(2) Where the Court directs that any cost shall not follow the event, the Court shall state its reasons in writing.

(3) The Court may give interest on costs at any rate not exceeding six per cent. per annum, and such interest shall be added to the costs and shall be recoverable as such.

PART II. EXECUTION.

GENERAL.

36. The provisions of this Code relating to the execution of decrees shall, so far as they are applicable, be deemed to apply to the execution of orders.

37. The expression "Court which passed a decree" or words to that effect, shall, in relation to the execution of decrees, unless there is anything repugnant in the subject or context, be deemed to include,—

- (a) where the decree to be executed has been passed in the exercise of appellate jurisdiction, the Court of first instance, and
- (b) where the Court of first instance has ceased to exist or to have jurisdiction to execute it, the Court which, if the suit wherein the decree was passed was instituted at the time of making the application for the execution of the decree, would have jurisdiction to try such suit.

COURTS BY WHICH DECREES MAY BE EXECUTED.

38. A decree may be executed either by the Court which passed it, or by the Court to which it is sent for execution.

39. (1) The Court which passes a decree may, on the transfer of decree, send it

- (a) if the person against whom the decree is passed actually and voluntarily resides or carries on

business, or personally works for gain, within the local limits of the jurisdiction of such other Court, or

- (b) if such person has not property within the local limits of the jurisdiction of the Court which passed the decree sufficient to satisfy such decree and has property within the local limits of the jurisdiction of such other Court, or
- (c) if the decree directs the sale or delivery of immoveable property situate outside the local limits of the jurisdiction of the Court which passed it, or
- (d) if the Court which passed the decree considers for any other reason, which it shall record in writing, that the decree should be executed by such other Court.

(2) The Court which passed a decree may of its own motion send it for execution to any subordinate Court of competent jurisdiction.

40. Where a decree is sent for execution in another province, it shall be sent to such Court and executed in such manner as may be prescribed by rules in force in that province.

41. The Court to which a decree is sent for execution shall certify to the Court which passed it the fact of such execution, or where the former Court fails to execute the same the circumstances attending such failure.

42. The Court executing a decree sent to it shall have the same powers in executing such decrees as if it had been passed by itself. All persons disobeying or obstructing the execution of the decree shall be punishable by such Court in the same manner as if it had passed the decree. And its order in executing such decree shall be subject to

the same rules in respect of appeal as if the decree had been passed by itself.

43. Any decree passed by a Civil Court established in any part of British India to which the provisions relating to execution do not extend, or by any Court established or continued by the authority of the Governor-General in Council in the territories of any foreign Prince or State, may, if it cannot be executed within the jurisdiction of the Court by which it was passed, be executed in manner herein provided within the jurisdiction of any Court in British India.

44. The Governor-General in Council may, by notification in the Gazette of India, declare that the decrees of any Civil or Revenue Courts situate in the territories of any native Prince or State in alliance with His Majesty and not established or continued by the authority of the Governor-General in Council, or any class of such decrees, may be executed in British India as if they had been passed by the Courts of British India.

45. So much of the foregoing sections of this Part as empowers a Court to send a decree for execution to another Court shall be construed as empowering a Court in British India to send a decree for execution to any Court established or continued by the authority of the Governor-General in Council in the territories of any foreign Prince or State to which the Governor-General in Council has, by notification in the Gazette of India, declared this section to apply.

46. (1) Upon the application of the decree-holder the Court which passed the decree may, whenever it thinks fit, issue a precept to any other Court which would be competent to execute such decree to attach any property belonging to, the judgment-debtor and specified in the precept.

Execution of decrees passed by British Courts in places to which this Part does not extend or in foreign territory.

Execution of decrees passed by Courts of Native States

Execution of decrees in foreign territory.

Precept

(2) The Court to which a precept is sent shall proceed to attach the property in the manner prescribed in regard to the attachment of property in execution of a decree :

Provided that no attachment under a precept shall continue for more than two months unless the period of attachment is extended by an order of the Court which passed the decree or unless before the determination of such attachment the decree has been transferred to the Court by which the attachment has been made and the decree-holder has applied for an order for the sale of such property.

QUESTIONS TO BE DETERMINED BY COURT EXECUTING DECREE.

47. (1) All questions arising between the parties to the suit in which the decree was passed, Questions to be de on their representatives and relating to

the decree and not by a separate suit.

(2) The Court may, subject to any objection to limitation or jurisdiction in this section as a suit, make any order, if necessary, order.

(3) Where a question arises as to whether any person is or is not the representative of a party, such question shall, for the purposes of this section, be determined by the Court.

Explanation.—For the purposes of this section, a plaintiff whose suit has been dismissed and a defendant against whom a suit has been dismissed, are parties to the suit.

LIMIT OF TIME FOR EXECUTION.

48. (1) Where an application to execute a decree not Execution barred in bringing a decree granting an injunction certain cases. has been made, no order for the execution of the same decree shall be made upon any fresh

application presented after the expiration of twelve years from—

- (a) the date of the decree sought to be executed, or,
- (b) where the decree or any subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods, the date of the default in making the payment or delivery in respect of which the applicant seeks to execute the decree.

(2) Nothing in this section shall be deemed—

- (a) to the execution
presented
of twelve
years, where the judgment-debtor has, by fraud or force, prevented the execution of the decree at some time within twelve years immediately before the date of the application ; or
- (b) to limit or otherwise affect the operation of, article 180 of the second schedule to the Indian Limitation Act, 1877.

TRANSFEREES AND LEGAL REPRESENTATIVES.

49. Every transferee of a decree shall hold the same subject to the equities (if any) which
the judgment-debtor might have enforced
against the original decree-holder.

50. (1) Where the judgment-debtor dies before the decree has been fully satisfied, the holder
of the decree may apply to the Court
which passed it to execute the same against the legal
representative of the deceased.

(2) Where the decree is executed against such legal representative, he shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of ; and, for the purpose of ascertaining such liability, the Court executing the

decree may, of its own motion or on the application of the decree-holder, compel such legal representative to produce such accounts as it thinks fit.

PROCEDURE IN EXECUTION.

51. Subject to such conditions and limitations as ^{Powers of Court to enforce execution.} may be prescribed, the Court may, on the application of the decree-holder, order execution of the decree—

- (a) by delivery of any property specifically decreed;
- (b) by attachment and sale or by sale without attachment of any property ;
- (c) by arrest and detention in prison ;
- (d) by appointing a receiver ; or
- (e) in such other manner as the nature of the relief granted may require.

52. (1) Where a decree is passed against a party as ^{Enforcement of decree against legal representative} the legal representative of a deceased person, and the decree is for the payment of money out of the property of the deceased, it may be executed by the attachment and sale of any such property.

(2) Where no such property remains in the possession ^{satisfy the Court of the deceased} of the deceased ^{possession, the decree} may be executed against the judgment-debtor to the extent of the property in respect of which he has failed so to satisfy the Court in the same manner as if the decree had been against him personally.

53. For the purposes of section 50 and section 52, ^{Liability of ancestral property.} property in the hands of a son or other descendant which is liable under Hindu law for the payment of the debt of a deceased ancestor, in respect of which a decree has been passed, shall be deemed to be property of the deceased which has come to

the hands of the son or other descendant as his legal representative.

54. Where the decree is for the partition of an undivided estate assessed to the payment of revenue to the Government, or for the separate possession of a share of such an estate, the partition of the estate or the separation of the share shall be made by the Collector or any gazetted subordinate of the Collector deputed by him in this behalf, in accordance with the law (if any) for the time being in force relating to the partition, or the separate possession of shares, of such estates.

ARREST AND DETENTION.

55. (1) A judgment-debtor may be arrested in execution of a decree at any hour and on any day, and shall, as soon as practicable, be brought before the Court, and his detention may be in the civil prison of the district in which the Court ordering the detention is situate, or, where such civil prison does not afford suitable accommodation, in any other place which the local Government may appoint for the detention of persons ordered by the Courts of such district to be detained :

Provided, firstly, that, for the purpose of making an arrest under this section, no dwelling-house shall be entered after sunset and before sunrise :

Provided, secondly, that no outer door of a dwelling-house shall be broken open unless such dwelling-house is in the occupancy of the judgment-debtor and he refuses or in any way prevents access thereto, but when the officer authorized to make the arrest has duly gained access to any dwelling-house, he may break open the door of any room in which he has reason to believe the judgment-debtor is to be found :

Provided, thirdly, that, if the room is in the actual occupancy of a woman who is not the judgment-debtor

and who according to the customs of the country does not appear in public, the officer authorized to make the arrest shall give notice to her that she is at liberty to withdraw, and, after allowing a reasonable time for her to withdraw and giving her reasonable facility for withdrawing, may enter the room for the purpose of making the arrest :

Provided, fourthly, that, where the decree in execution of which a judgment-debtor is arrested, is a decree for the payment of money and the judgment-debtor pays the amount of the decree and the costs of the arrest to the officer arresting him, such officer shall at once release him.

(2) The Local Government may, by notification in the local official Gazette, declare that any person or class of persons whose arrest might be attended with danger or inconvenience to the public shall not be liable to arrest in execution of a decree otherwise than in accordance with such procedure as may be prescribed by the Local Government in this behalf.

(3) Where a judgment-debtor is arrested in execution of a decree for the payment of money and brought before the Court, the Court shall inform him that he may apply to be declared an insolvent, and that he will be discharged if he has not committed any act of bad faith regarding the subject of the application and if he complies with the provisions of the law of insolvency for the time being in force.

(4) Where a judgment-debtor expresses his intention to apply to be declared an insolvent and furnishes security, to the satisfaction of the Court, that he will within one month so apply, and that he will appear, when called upon, in any proceeding upon the application or upon the decree in execution of which he was arrested, the Court shall release him from arrest, and, if he fails so to apply and to appear, the Court may either direct the security to be realized or commit him to the civil prison in execution of the decree.

56. Notwithstanding anything in this Part, the Court shall not order the arrest or detention in the civil prison of a woman in execution of a decree for the payment of money.

57. The Local Government may fix scales, graduated according to rank, race and nationality of monthly allowances payable for the subsistence of judgment-debtors.

58. (1) Every person detained in the civil prison in execution of a decree shall be so detained,—

(a) where the decree is for the payment of a sum of money exceeding fifty rupees, for a period of six months, and,

(b) in any other case, for a period of six weeks :

Provided that he shall be released from such detention before the expiration of the said period of six months or six weeks, as the case may be,—

(i) on the amount mentioned in the warrant for his detention being paid to the officer in charge of the civil prison, or

(ii) on the decree against him being otherwise fully satisfied, or

(iii) on the request of the person on whose application he has been so detained, or

(iv) on the omission by the person, on whose application he has been so detained, to pay subsistence-allowance :

Provided, also, that he shall not be released from such detention under clause (ii) or clause (iii), without the order of the Court.

(2) A judgment-debtor released from detention under this section shall not merely by reason of his release be discharged from his debt, but he shall not be liable to be

re-arrested under the decree in execution of which he was detained in the civil prison.

59. (1) At any time after a warrant for the arrest of a judgment-debtor has been issued the Court may cancel it on the ground of his serious illness.

(2) Where a judgment-debtor has been arrested, the Court may release him if, in its opinion, he is not in a fit state of health to be detained in a civil prison.

(3) Where a judgment-debtor has been committed to the civil prison, he may be released therefrom—

(a) by the Local Government, on the ground of the existence of any infectious or contagious disease, or

(b) by the committing Court, or any Court to which that Court is subordinate, on the ground of his suffering from any serious illness.

(4) A judgment-debtor released under this section may be re-arrested, but the period of his detention in the civil prison shall not in the aggregate exceed that prescribed by section 58.

ATTACHMENT.

60. (1) The following property is liable to attachment and sale in execution of a decree, namely, lands, houses or other buildings, goods, money, banknotes, cheques, bills of exchange, hundis, promissory notes, Government securities, bonds or other securities for money, debts, shares, and all other property, whether moveable or immovable, which, or the profits of which he may exercise, or the same be held in the name of, the judgment-debtor or by another person in trust for him or on his behalf;

Provided that the following particulars shall not be liable to such attachment or sale, namely :—

- (a) the necessary wearing-apparel, cooking-vessels, beds and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman ;
- (b) tools of artizans, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such, and such portion of agricultural produce or of any class of agricultural produce as may have been declared to be free from liability under the provisions of the next following section ;
- (c) houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to an agriculturist and occupied by him ;
- (d) books of account ;
- (e) a mere right to sue for damages ;
- (f) any right of personal service ;
- (g) stipends and gratuities allowed to pensioners of the Government, or payable out of any service family pension fund notified in the Gazette of India by the Governor-General in Council in this behalf, and political pensions ;
- (h) allowances (being less than salary) of any public officer or of any servant of a railway company or local authority while absent from duty ;
- (i) the salary or allowances equal to salary of any such public officer or servant as is referred to in clause (h), while on duty, to the extent of—

- (i) the whole of the salary, where the salary does not exceed twenty rupees monthly ;
- (ii) twenty rupees monthly, where the salary exceeds twenty rupees and does not exceed forty rupees monthly ; and
- (iii) one moiety of the salary in any other case :
- (j) the pay and allowance of persons to whom the Indian Articles of War apply ;
- (k) all compulsory deposits and other sums in or derived from any fund to which the Provident Funds Act, 1897, for the time being, applies in so far as they are declared by the said Act not to be liable to attachment ;
- (l) the wages of labourers and domestic servants whether payable in money or in kind ;
- (m) an expectancy of succession by survivorship or other merely contingent or possible right or interest ;
- (n) a right to future maintenance ;
- (o) any allowance declared by any law passed under the Indian Councils Acts, 1861 and 1892, to be exempt from liability to attachment or sale in execution of a decree ; and,
- (p) where the judgment-debtor is a person liable for the payment of land-revenue, any moveable property which, under any law for the time being applicable to him, is exempt from sale for the recovery of an arrear of such revenue.

Explanation.—The particulars mentioned in clauses (a), (h), (i), (j), (l) and (o) are exempt from attachment or sale whether before or after they are actually payable.

(2) Nothing in this section shall be deemed—

- (a) to exempt houses and other buildings (with the materials and the sites thereof and the lands

immediately appurtenant thereto and necessary for their enjoyment) from attachment or sale in execution of decrees for rent of any such house, buildings, site or land, or

(b) to affect the provisions of the Army Act or of any similar law for the time being in force.

61. The Local Government, with the previous sanction of the Governor-General in Council, may, by general or special order published in the local official Gazette, declare that such portion of agricultural produce, or of any class of agricultural produce, as may appear to the Local Government to be necessary for the purpose of providing until the next harvest for the due cultivation of the land and for the support of the judgment-debtor and his family shall, in the case of all agriculturists or of any class of agriculturists, be exempted from liability to attachment or sale in execution of a decree.

62. (1) No

seizure of property
in dwelling house

ing-house after sunset and before sunrise.

(2) No outer door of a dwelling-house shall be broken open unless such dwelling-house is in the occupancy of the judgment-debtor and he refuses or in any way prevents access thereto, but when the person executing any such process has duly gained access to any dwelling-house, he may break open the door of any room in which he has reason to believe any such property to be.

(3) Where a room in a dwelling-house is in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the person executing such process may, if he has reasonable cause to believe that she is in that room, and that it is reasonable and necessary for the purpose of seizing the property, using at the same time every

precaution, consistent with these provisions, to prevent its clandestine removal.

63. (1) Where property not in the custody of any Court is under attachment in execution of decrees of more Courts than one, the Court which shall receive or realize such property and shall determine any claim thereto and any objection to the attachment thereof shall be the Court of highest grade, or, where there is no difference in grade between such Courts, the Court under whose decree the property was first attached.

(2) Nothing in this section shall be deemed to invalidate any proceeding taken by a Court executing one of such decrees.

64. Where an attachment has been made, any private transfer or delivery of the property attached or of any interest therein and any payment to the judgment-debtor of any debt, dividend or other monies contrary to such attachment, shall be void as against all claims enforceable under the attachment.

Explanation.—For the purposes of this section, claims enforceable under an attachment include claims for the rateable distribution of assets.

SALE.

65. Where immoveable property is sold in execution of a decree and such sale has become absolute, the property shall be deemed to have vested in the purchaser from the time when the property is sold and not from the time when the sale becomes absolute.

66. (1) No suit shall be maintained against any person claiming title under a purchase certified by the Court in such manner as may be prescribed on the ground that the purchase was made on behalf of the plaintiff or on behalf of some one through whom the plaintiff claims.

(2) Nothing in this section shall bar a suit to obtain a declaration that the name of any purchaser certified as aforesaid was inserted in the certificate fraudulently or without the consent of the real purchaser, or interfere with the right of a third person to proceed against that property, though ostensibly sold to the certified purchaser, on the ground that it is liable to satisfy a claim of such third person against the real owner.

67. The Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, make rules for any local area imposing conditions in respect of the sale of any class of interests in land in execution of decrees for the payment of money, where such interests are so uncertain or undetermined as, in the opinion of the Local Government, to make it impossible to fix their value.

DELEGATION TO COLLECTOR OF POWER TO EXECUTE DECREES AGAINST IMMOVEABLE PROPERTY.

68. The Local Government may, with the previous sanction of the Governor-General in Council, declare, by notification in the local official Gazette, that in any local area the execution of decrees in cases in which a Court has ordered any immoveable property to be sold, or the execution of any particular kind of such decree, or the execution of decrees ordering the sale of any particular kind of, or interest in, immoveable property, shall be transferred to the Collector.

69. The provisions set forth in the Third Schedule shall apply to all cases in which the execution of a decree has been transferred under the last preceding section.

70. (1) The Local Government may make rules consistent with the aforesaid provisions—
 subject provisions.

- (a) for the transmission of the decree from the Court to the Collector, and for regulating the procedure of the Collector and his subordinates in executing the same, and for retransmitting the decree from the Collector to the Court ;
- (b) conferring upon the Collector or any gazetted subordinate of the Collector all or any of the powers which the Court might exercise in the execution of the decree if the execution thereof had not been transferred to the Collector ;
- (c) providing for orders made by the Collector or any gazetted subordinate of the Collector, or orders made on appeal with respect to such orders, being subject to appeal to, and revision by, superior revenue authorities as nearly as may be as the orders made by the Court, or orders made on appeal with respect to such orders, would be subject to appeal to, and revision by, appellate or revisional Courts under this Code or other law for the time being in force if the decree had not been transferred to the Collector.

(2) A power conferred by rules made under sub-section (1) upon the Collector or any gazetted subordinate of the Collector, or upon any appellate or revisional authority, shall not be exercisable by the Court or by any Court in exercise of any appellate or revisional jurisdiction which it has with respect to decrees or orders of the Court.

71. In executing a decree transferred to the Collector under section 68 the Collector and his subordinates shall be deemed to be acting judicially.

72. (1) Where in any local area in which no declaration under section 68 is in force the property attached consists of land or of a share in land, and the Collector represents to the Court that the public sale of the land or

Jurisdiction of Civil Courts barred

Collector deemed to be acting judicially.

Where Court may authorize Collector to stay public sale of land.

share is objectionable and that satisfaction of the decree may be made within a reasonable period by a temporary alienation of the land or share, the Court may authorize the Collector to provide for such satisfaction in the manner recommended by him instead of proceeding to a sale of the land or share.

(2) In every such case the provisions of sections 69 to 71 and of any rules made in pursuance thereof shall apply so far as they are applicable.

DISTRIBUTION OF ASSETS.

73. (1) Where assets are held by a Court and more persons than one have, before the receipt of such assets, made application to the Court for the execution of decrees for the payment of money passed against the same judgment-debtor and have not obtained satisfaction thereof, the assets, after deducting the costs of realization, shall be rateably distributed among all such persons :

Provided as follows :—

- (a) where any property is sold subject to a mortgage or charge, the mortgagee or incumbrancer shall not be entitled to share in any surplus arising from such sale ;
- (b) where any property liable to be sold in execution of a decree is subject to a mortgage or charge, the Court may, with the consent of the mortgagee or incumbrancer, order that the property be sold free from the mortgage or charge, giving to the mortgagee or incumbrancer the same interest in the proceeds of the sale as he had in the property sold ;
- (c) where any immoveable property is sold in execution of a decree ordering its sale for the discharge of an incumbrance thereon, the proceeds of sale shall be applied—

first, in defraying the expenses of the sale ;
secondly, in discharging the amount due under the decree ;

thirdly, in discharging the interest and principal monies due on subsequent incumbrances (if any) ; and,

fourthly, rateably among the holders of decrees for the payment of money against the judgment-debtor, who have, prior to the sale of the property, applied to the Court which passed the decree ordering such sale for execution of such decrees, and have not obtained satisfaction thereof.

(2) Where all or any of the assets liable to be rateably distributed under this section are paid to a person not entitled to receive the same, any person so entitled may sue such person to compel him to refund the assets.

(3) Nothing in this section affects any right of the Government.

RESISTANCE TO EXECUTION.

74. Where the Court is satisfied that the holder of a decree for the possession of immoveable property or that the purchaser of immoveable property sold in execution of a decree has been resisted or obstructed in obtaining possession of the property by the judgment-debtor or some person on his behalf and that such resistance or obstruction was without any just cause, the Court may, at the instance of the decree-holder or purchaser, order the judgment-debtor or such other person to be detained in the civil prison for a term which may extend to thirty days and may further direct that the decree-holder or purchaser be put into possession of the property.

PART III. INCIDENTAL PROCEEDINGS.

COMMISSIONS.

75. Subject to such conditions and limitations as ^{Power of Court to} may be prescribed, the Court may, ^{issue commissions.} issue a commission—

- (a) to examine any person ;
- (b) to make a local investigation,
- (c) to examine or adjust accounts ; or
- (d) to make a partition.

76. (1) A commission for the examination of any ^{Commission to another Court} person may be issued to any Court (not being a High Court) situate in a province other than the province in which the Court of issue is situate and having jurisdiction in the place in which the person to be examined resides.

(2) Every Court receiving a commission for the examination of any person under sub-section (1) shall examine him or cause him to be examined pursuant thereto, and the commission, when it has been duly executed, shall be returned together with the evidence taken under it to the Court from which it was issued, unless the order for issuing the commission has otherwise directed, in which case the commission shall be returned in terms of such order.

77. In lieu of issuing a commission the Court may ^{Letter of request} issue a letter of request to examine a witness residing at any place not within British India.

78. The provisions as to the execution and return ^{Commissions issued by foreign Courts} of commissions for the examination of witnesses shall apply to commissions issued by—

- (a) Courts situate beyond the limits of British India and established or continued by the authority of His Majesty or of the Governor-General in Council, or
- (b) Courts situate in any part of the British Empire other than British India, or
- (c) Courts of any foreign country for the time being in alliance with His Majesty.

PART IV.

SUITS IN PARTICULAR CASES.

SUITS BY OR AGAINST THE GOVERNMENT OR PUBLIC OFFICERS IN THEIR OFFICIAL CAPACITY.

79. (1) Suits by or against the Government shall be instituted by or against the Secretary of State for India in Council.

Suits by or against Government

(2) Nothing in this section shall be deemed to limit or otherwise affect any information exhibited by the Advocate-General in exercise of the power declared by section 111 of the East India Company Act, (33 Geo. 3, c. 155) 1813.

80. No suit shall be instituted against the Secretary of State for India in Council, or against a public officer in respect of any act purporting to be done by such public officer in his official capacity, until the expiration of two months next after notice in writing has been, in the case of the Secretary of State in Council, delivered to, or left at the office of, a Secretary to the Local Government or the Collector of the district, and, in the case of a public officer, delivered to him or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left.

Notice.

Exemption
from and
appears.

from
personal

81. In a suit instituted against a public officer in respect of any act purporting to be done by him in, his official capacity—

- (a) the defendant shall not be liable to arrest nor his property to attachment otherwise than in execution of a decree, and,
- (b) where the Court is satisfied that the defendant cannot absent himself from his duty without detriment to the public service, it shall exempt him from appearing in person.

82. (1) Where the decree is against the Secretary of

Execution of decree

State for India in Council or against a public officer in respect of any such act

as aforesaid, a time shall be specified in the decree within which it shall be satisfied; and, if the decree is not satisfied within the time so specified, the Court shall report the case for the orders of the Local Government.

(2) Execution shall not be issued on any such decree unless it remains unsatisfied for the period of three months computed from the date of such report.

SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

83. (1) Alien enemies residing in British India with

When aliens may sue.

the permission of the Governor-General in Council, and alien friends, may sue

in the Courts of British India, as if they were subjects of His Majesty.

(2) No alien enemy residing in British India without such permission, or residing in a foreign country, shall sue in any such Courts.

Explanation.—Every person residing in a foreign country the Government of which is at war with the United Kingdom of Great Britain and Ireland, and carrying on business in that country without a license in

that behalf under the hand of one of His Majesty's Secretaries of State or of a Secretary to the Government of India, shall, for the purpose of sub-section (2), be deemed to be an alien enemy residing in a foreign country.

When foreign States
may sue

84. (1) A foreign State may sue in any Court of British India :

Provided that such State has been recognised by His Majesty or by the Governor-General in Council :

Provided, also, that the object of the suit is to enforce a private right vested in the head of such State or in any officer of such State in his public capacity.

(2) Every Court shall take judicial notice of the fact that a foreign State has or has not been recognised by His Majesty or by the Governor-General in Council.

Persons specially
appointed by Govern-
ment to prosecute or
defend for Princes or
Chiefs.

85. (1) Persons specially appointed by order of the Government at the request of any Sovereign Prince or Ruling Chief, whether in subordinate alliance with the British Government or otherwise, and whether residing within or without British India, or at the request of any person competent, in the opinion of the Government, to act on behalf of such Prince or Chief, behalf, shall be hom appearances, may be made for

(2) An appointment under this section may be made for the purpose of a specified suit or of several specified suits, or for the purpose of all such suits as it may from time to time be necessary to prosecute or defend on behalf of the Prince or Chief.

(3) A person appointed under this section may authorise or appoint persons to make appearances and applications and do acts in any such suit or suits as if he were himself a party thereto.

86. (1) Any such Prince or Chief, and any ambassador or envoy of a foreign State, may, with the consent of the Governor-General in Council, certified by the signature of a Secretary to the Government of India, but not without such consent, be sued in any competent Court.

(2) Such consent may be given with respect to a specified suit or to several specified suits, or with respect to all suits of any specified class or classes, and may specify, in the case of any suit or class of suits, the Court in which the Prince, Chief, ambassador or envoy may be sued; but it shall not be given unless it appears to the Government that the Prince, Chief, ambassador or envoy—

- (a) has instituted a suit in the Court against the person desiring to sue him, or
- (b) by himself or another trades within the local limits of the jurisdiction of the Court, or
- (c) is in possession of immoveable property situate within those limits and is to be sued with reference to such property or for money charged thereon.

(3) No such Prince, Chief, ambassador or envoy shall be arrested under this Code, and, except with the consent of the Governor-General in Council certified as aforesaid, no decree shall be executed against the property of any such Prince, Chief, ambassador or envoy.

(4) The Governor-General in Council may, by notification in the Gazette of India, authorize a Local Government and any Secretary to that Government to exercise, with respect to any Prince, Chief, ambassador or envoy named in the notification, the functions assigned by the foregoing sub-sections to the Governor-General in Council and a Secretary to the Government of India, respectively.

(3) A person may, as a tenant of immoveable property, sue, without such consent as is mentioned in this section, a Prince, Chief, ambassador or envoy from whom he holds or claims to hold the property.

87. A Sovereign Prince or Ruling Chief may sue, and ^{style of Prince and Chiefs as parties to suits} shall be sued, in the name of his State: Provided that in giving the consent referred to in the foregoing section the Governor-General in Council or the Local Government, as the case may be, may direct that any such Prince or Chief shall be sued in the name of an agent or in any other name.

INTERPLEADER.

88. Where two or more persons claim adversely to one another the same debt, sum of money or other property, moveable or immoveable, from another person, who claims no interest therein other than for charges or costs and who is ready to pay, or deliver it to the rightful claimant, such other person may institute a suit of interpleader against all the claimants for the purpose of obtaining a decision as to the person to whom the payment or delivery shall be made, and of obtaining indemnity for himself.

Where interpleader-suit may be instituted
Provided that where any suit is pending in which the rights of all parties can properly be decided, no such suit of interpleader shall be instituted.

PART V.

SPECIAL PROCEEDINGS.

ARBITRATION.

89. (1) Save in so far as is otherwise provided by the Indian Arbitration Act, 1899, or by any other law for the time being in force, all references to arbitration whether by an order in a suit or otherwise, and all proceedings thereunder, shall be governed by the provisions contained in the Second Schedule.

Arbitration.

(2) The provisions of the Second Schedule shall not affect any arbitration pending at the commencement of this Code, but shall apply to any arbitration after that date under any agreement or reference made before the commencement of this Code.

SPECIAL CLASS.

90. Where any persons agree in writing to state a case for the opinion of the Court, then the Court shall try and determine the same in the manner prescribed.

Power to state case for opinion of Court

SUITS RELATING TO PUBLIC MATTERS.

91. (1) In the case of a public nuisance the Advocate-General, or two or more persons having obtained the consent in writing of the Advocate-General, may institute a suit, though no special damage has been caused, for a declaration and injunction or for such other relief as may be appropriate to the circumstances of the case.

Public nuisances

(2) Nothing in this section shall be deemed to limit or otherwise affect any right of suit which may exist independently of its provisions.

92. (1) In the case of any alleged breach of any express or constructive trust created for public purposes of a charitable or religious nature, or where the direction of the Court is deemed necessary for the administration of any such trust, the Advocate-General, or two or more persons having an interest in the trust and having obtained the consent in writing of the Advocate-General, may institute a suit, in the principal Civil Court or any other Court empowered to entertain suits of that nature, or in any Government within the local limits of the jurisdiction of the Court, for the whole or any part of the subject-matter of the trust is situate to obtain a decree —

Public charities

that behalf under the hand of one of His Majesty's Secretaries of State or of a Secretary to the Government of India, shall, for the purpose of sub-section (2), be deemed to be an alien enemy residing in a foreign country.

When foreign States may sue 84. (1) A foreign State may sue in any Court of British India :

Provided that such State has been recognised by His Majesty or by the Governor-General in Council :

Provided, also, that the object of the suit is to enforce a private right vested in the head of such State or in any officer of such State in his public capacity.

(2) Every Court shall take judicial notice of the fact that a foreign State has or has not been recognised by His Majesty or by the Governor-General in Council.

Persons specially appointed by Government to prosecute or defend for Princes or Chiefs. 85. (1) Persons specially appointed by order of the Government at the request of any Sovereign Prince or Ruling Chief, whether in subordinate alliance with the British Government or otherwise, and whether residing within or without British India, or at the request of any person competent, in the opinion of the Government, to act on behalf of such Prince or Chief, to prosecute or defend any suit on his behalf, shall be deemed to be the recognized agents by whom appearances, acts and applications under this Code may be made or done on behalf of such Prince or Chief.

(2) An appointment under this section may be made for the purpose of a specified suit or of several specified suits, or for the purpose of all such suits as it may from time to time be necessary to prosecute or defend on behalf of the Prince or Chief.

(3) A person appointed under this section may authorize or appoint persons to make appearances and applications and do acts in any such suit or suits as if he were himself a party thereto.

86. (1) Any such Prince or Chief, and any ambassador or envoy of a foreign State, may, with the consent of the Governor-General in Council, certified by the signature of a Secretary to the Government of India, but not without such consent, be sued in any competent Court.

Suits against Princes,
Chiefs, ambassadors
and envoys.

(2) Such consent may be given with respect to a specified suit or to several specified suits, or with respect to all suits of any specified class or classes, and may specify, in the case of any suit or class of suits, the Court in which the Prince, Chief, ambassador or envoy may be sued; but it shall not be given unless it appears to the Government that the Prince, Chief, ambassador or envoy—

(a) has instituted a suit in the Court against the person desiring to sue him, or

(b) by himself or another trades within the local limits of the jurisdiction of the Court, or

(c) is in possession of immoveable property situate within those limits and is to be sued with reference to such property or for money charged thereon.

(3) No such Prince, Chief, ambassador or envoy shall be arrested under this Code, and, except with the consent of the Governor-General in Council certified as aforesaid, no decree shall be executed against the property of any such Prince, Chief, ambassador or envoy.

(4) The Governor-General in Council may, by notification in the Gazette of India, authorize a Local Government and any Secretary to that Government to exercise, with respect to any Prince, Chief, ambassador or envoy named in the notification, the functions assigned, the foregoing sub-sections to the Governor-General in Council and a Secretary to the Government of India respectively.

(5) A person may, as a tenant of immoveable property, sue, without such consent as is mentioned in this section, a Prince, Chief, ambassador or envoy from whom he holds or claims to hold the property.

87. A Sovereign Prince or Ruling Chief may sue, and shall be sued, in the name of his State: ^{Style of Princes and Chiefs as parties to suits} Provided that in giving the consent referred to in the foregoing section the Governor-General in Council or the Local Government, as the case may be, may direct that any such Prince or Chief shall be sued in the name of an agent or in any other name.

INTERPLEADER.

88. Where two or more persons claim adversely to one another the same debt, sum of money or other property, moveable or immoveable, from another person, who claims no interest therein other than for charges or costs and who is ready to pay, or deliver it to the rightful claimant, such other person may institute a suit of interpleader against all the claimants for the person to whom and of obtaining.

Provided that where any suit is pending in which the rights of all parties can properly be decided, no such suit of interpleader shall be instituted.

PART V.

SPECIAL PROCEEDINGS.

ARBITRATION.

89. (1) Save in so far as is otherwise provided by the Indian Arbitration Act, 1899, or by any other law for the time being in force, all references to arbitration whether by an order in a suit or otherwise, and all proceedings thereunder, shall be governed by the provisions contained in the Second Schedule.

(2) The provisions of the Second Schedule shall not affect any arbitration pending at the commencement of this Code, but shall apply to any arbitration after that date under any agreement or reference made before the commencement of this Code.

SPECIAL CLASS.

90. Where any persons agree in writing to state a case for the opinion of the Court, then Power to state case for opinion of Court the Court shall try and determine the same in the manner prescribed.

SUITS RELATING TO PUBLIC MATTERS.

91. (1) In the case of a public nuisance the Advocate-General, or two or more persons having obtained the consent in writing of the Advocate-General, may institute a suit, though no special damage has been caused, for a declaration and injunction for such other relief as may be appropriate to the circumstances of the case.

(2) Nothing in this section shall be deemed to limit or otherwise affect any right of suit which may exist independently of its provisions.

92. (1) In the case of any alleged breach of any express or constructive trust created for public purposes of a charitable or religious nature, or where the direction of the Court is deemed necessary for the administration of any such trust, the Advocate-General, or two or more persons having an interest in the trust and having obtained the consent in writing of the Advocate-General, may institute a suit, whether contentious or not, in the principal Civil Court of original jurisdiction or in any other Court empowered in that behalf by the Local Government within the local limits of whose jurisdiction the whole or any part of the subject-matter of the trust is situate to obtain a decree —

- (a) removing any trustee ;
- (b) appointing a new trustee ;
- (c) vesting any property in a trustee ;
- (d) directing accounts and inquiries ;
- (e) declaring what proportion of the trust-property or of the interest therein shall be allocated to any particular object of the trust ;
- (f) authorizing the whole or any part of the trust-property to be let, sold, mortgaged or exchanged ;
- (g) settling a scheme ; or
- (h) granting such further or other relief as the nature of the case may require.

(2) Save as provided by the Religious Endowments Act, 1863, (XX of 1863) no suit claiming any of the reliefs specified in sub-section (1) shall be instituted in respect of any such trust as is therein referred to except in conformity with the provisions of that sub-section.

93. The powers conferred by sections 91 and 92 on the Advocate-General may, outside the Presidency-towns, be, with the previous sanction of the Local Government, exercised also by the Collector or by such officer as the Local Government may appoint in this behalf.

PART VI.

SUPPLEMENTAL PROCEEDINGS.

94. In order to prevent the ends of justice from being defeated, the Court may, if it is so prescribed, —

- (a) issue a warrant to arrest the defendant and bring him before the Court to show cause why he should not give security for his appearance and if he fails to comply with any order of security commit him to the civil prison ;

- (b) direct the defendant to furnish security to produce any property belonging to him and to place the same at the disposal of the Court or order the attachment of any property ;
- (c) grant a temporary injunction and in case of disobedience commit the person guilty thereof to the civil prison and order that his property be attached and sold ;
- (d) appoint a receiver of any property and enforce the performance of his duties by attaching and selling his property ;
- (e) make such other interlocutory orders as may appear to the Court to be just and convenient.

95. (1) Where, in any suit in which an arrest or attachment has been effected or a temporary injunction granted under the last preceding section, —

- (a) it appears to the Court that such arrest, attachment or injunction was applied for on insufficient grounds, or
- (b) the suit of the plaintiff fails and it appears to the Court that there was no reasonable or probable ground for instituting the same,

the defendant may apply to the Court, and the Court may, upon such application, award against the plaintiff by its order such amount, not exceeding one thousand rupees, as it deems a reasonable compensation to the defendant for the expense or injury caused to him :

Provided that a Court shall not award, under this section, an amount exceeding the limits of its pecuniary jurisdiction

(2) An order determining any such application shall be for any suit for compensation in respect of such arrest, attachment or injunction.

PART VII. APPEALS.

APPEALS FROM ORIGINAL DECREES.

96. (1) Save where otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie from every decree passed by any Court exercising original jurisdiction to the Court authorized to hear appeals from the decisions of such Court.

(2) An appeal may lie from an original decree passed *ex parte*.

(3) No appeal shall lie from a decree passed by the Court with the consent of parties.

97. Where any party aggrieved by a preliminary decree passed after the commencement of this Code does not appeal from such decree, he shall be precluded from disputing its correctness in any appeal which may be preferred from the final decree.

98. (1) Where an appeal is heard by a Bench of two or more Judges, the appeal shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges.

(2) Where there is no such majority which concurs in a judgment varying or reversing the decree appealed from, such decree shall be confirmed:

Provided that where the Bench hearing the appeal is composed of two Judges belonging to a Court consisting of more than two Judges, and the Judges composing the Bench differ in opinion on a point of law, they may state the point of law upon which they differ, and the appeal shall then be heard upon that point only by one or more of the other Judges, and such point shall be decided

according to the opinion of the majority (if any) of the Judges who have heard the appeal, including those who first heard it.

99. No decree shall be reversed or substantially varied, nor shall any case be remanded, in appeal on account of any misjoinder of parties or causes of action or any error, defect or irregularity in any proceedings in the suit, not affecting the merits of the case or the jurisdiction of the Court.

No decree to be reversed or modified for error or irregularity not affecting merits or jurisdiction

APPEALS FROM APPELLATE DECREES.

100 (1) Save where otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie to the High Court from every decree passed in appeal by any Court subordinate to a High Court, on any of the following grounds, namely:—

(a) the decision being contrary to law or to some usage having the force of law;

(b) the decision having failed to determine some material issue of law or usage having the force of law;

(c) a substantial error or defect in the procedure provided by this Code or by any other law for the time being in force, which may possibly have produced error or defect in the decision of the case upon the merits.

(2) An appeal may lie under this section from an appellate decree passed *ex parte*.

101. No second appeal shall lie except on the grounds mentioned in section 100.

Second appeal on no other grounds.

102. No second appeal shall lie in any suit of the nature cognizable by Courts of Small Causes, when the amount or value of the subject-matter of the original suit does not exceed hundred rupees.

No second appeal in certain suits.

103. In any second appeal, the High Court may, if the evidence on the record is sufficient, determine any issue of fact necessary for the disposal of the appeal but not determined by the lower appellate Court.

APPEALS FROM ORDER-

104. (1) An appeal shall lie from the following orders, and, save as otherwise expressly provided in the body of this Code or by any law for the time being in force from no other orders:—

- (a) an order superseding an arbitration where the award has not been completed within the period allowed by the Court ;
- (b) an order on an award stated in the form of a special case ;
- (c) an order modifying or correcting an award ;
- (d) an order filing or refusing to file an agreement to refer to arbitration ;
- (e) an order staying or refusing to stay a suit where there is an agreement to refer to arbitration ;
- (f) an order filing or refusing to file an award in an arbitration without the intervention of the Court ;
- (g) an order under section 95 ;
- (h) an order under any of the provisions of this Code imposing a fine or directing the arrest or detention in the civil prison of any person except where such arrest or detention is in execution of a decree ;
- (i) any order made under rules from which an appeal is expressly allowed by rules.

(2) No appeal shall lie from any order passed in appeal under this section.

105. (1) Save as otherwise expressly provided, no appeal shall lie from any order made by a Court in the exercise of its original or appellate jurisdiction ; but, where a decree is appealed

from, any error, defect or irregularity in any order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal.

(2) Notwithstanding anything contained in sub-section (1), where any party aggrieved by an order of remand made after the commencement of this Code from which an appeal lies does not appeal therefrom, he shall thereafter be precluded from disputing its correctness.

106. Where an appeal from any order is allowed, it shall lie to the Court to which an appeal would lie from the decree in the suit in which such order was made, or where such order is made by a Court (not being a High Court) in the exercise of appellate jurisdiction, then to the High Court.

GENERAL PROVISIONS RELATING TO APPEALS.

107. (1) Subject to such conditions and limitations as may be prescribed, an appellate Court shall have power—

- (a) to determine a case finally ;
- (b) to remand a case ;
- (c) to frame issues and refer them for trial ;
- (d) to take additional evidence or to require such evidence to be taken.

(2) Subject as aforesaid, the Appellate Court shall have the same powers and shall perform as nearly as may be the same duties as are conferred and imposed by this Code on Courts of original jurisdiction in respect of suits instituted therein.

108. The provisions of this Part relating to appeals from original decrees shall, so far as may be, apply to appeals—

- (a) from appellate decrees, and
- (b) from orders made under this Code or under any special or local law in which a different procedure is not provided.

APPEALS TO THE KING IN COUNCIL.

109. Subject to such rules as may, from time to time, be made by His Majesty in Council regarding appeals from the Courts of British India, and to the provisions hereinafter contained, an appeal shall lie to His Majesty in Council—

- (a) from any decree or final order passed on appeal by a High Court or by any other Court of final appellate jurisdiction ;
- (b) from any decree or final order passed by a High Court in the exercise of original civil jurisdiction : and
- (c) from any decree or order, when the case, as hereinafter provided, is certified to be a fit one for appeal to His Majesty in Council.

110. In each of the cases mentioned in clauses (a) and (b) of section 109, the amount or value of the subject-matter of the suit in the Court of first instance must be ten thousand rupees or upwards, and the amount or value of the subject-matter in dispute on appeal to His Majesty in Council must be the same sum or upwards.

or the decree or final order must involve, directly or indirectly, some claim or question to or respecting property of like amount or value.

and where the decree or final order appealed from affirms the decision of the Court immediately below the appeal must

in section
His Majesty
in Council—

- (a) from the decree or order of one Judge of a High Court established under the Indian High Courts Act, 1861, 24 and 25 Vict., c. 104) or of one Judge of a Division Court, or of two or more

Judges of such High Court, or of a Division Court constituted by two or more Judges of such High Court, where such Judges are equally divided in opinion, and do not amount in number to a majority of the whole of the Judges of the High Court at the time being; or

- (b) from any decree from which under section 102 no second appeal lies.

^{Saving.} 112. (1) Nothing contained in this Code shall be deemed—

- (a) to bar the full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council, or otherwise howsoever, or
(b) to interfere with any rules made by the Judicial Committee of the Privy Council, and for the time being in force for the presentation of appeals to His Majesty in Council, or their conduct before the said Judicial Committee.

(2) Nothing herein contained applies to any matter of criminal or admiralty or vice-admiralty jurisdiction, or to appeals from orders and decrees of Prize Courts.

PART VIII.

REFERENCE, REVIEW AND REVISION.

113. Subject to such conditions and limitations as ^{Reference to High Court} may be prescribed, any Court may state a case and refer the same for the opinion of the High Court, and the High Court may make such order thereon as it thinks fit.

114. Subject as aforesaid, any person ^{Review,} considering himself aggrieved—

- (a) by a decree or order from which an appeal is allowed by this Code, but from which no appeal has been preferred,

- (b) by a decree or order from which no appeal is allowed by this Code, or
- (c) by a decision on a reference from a Court of Small Causes,

may apply for a review of judgment to the Court which passed the decree or made the order and the Court may make such order thereon as it thinks fit.

115. The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears—

Review.

- (a) to have exercised a jurisdiction not vested in it by law, or
- (b) to have failed to exercise a jurisdiction so vested, or
- (c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order in the case as it thinks fit.

PART IX.

SPECIAL PROVISIONS RELATING TO THE CHARTERED HIGH COURTS.

116. This Part applies only to High Courts which are or may hereafter be established under the Indian High Courts Act, 1861, (24 & 25 Vict., c. 104).

Part IX applies only to certain High Courts.

117. Save as provided in this Part or in Part X of the Code, the provisions of this Code shall apply to such High Courts.

Application of Code to High Courts.

118. Where any such High Court considers it necessary that a decree passed in the exercise of its original civil jurisdiction should be executed before the amount of the

Payment of decree before execution of decree.

costs incurred in the suit can be ascertained by taxation, the Court may order that the decree shall be executed forthwith, except as to so much thereof as relates to the costs; and, as to so much thereof as relates to the costs, that the decree may be executed as soon as the amount of the costs shall be ascertained by taxation.

119. Nothing in this Code shall be deemed to authorize any person on behalf of another to address the Court in the exercise of its original civil jurisdiction, or to examine witnesses, except where the Court shall have in the exercise of the power conferred by its charter authorized him so to do, or to interfere with the power of the High Court to make rules concerning advocates, vakils and attorneys.

120. (1) The following provisions shall not apply to the High Court in the exercise of its original civil jurisdiction, namely, sections 16, 17 and 20.

(2) Nothing in this Code shall extend or apply to any exercise of jurisdiction as

PART X. RULES.

121. The rules in the First Schedule shall have effect as if enacted in the body of this Code until annulled or altered in accordance with the provisions of this Part.

122. High Courts established under the Indian High Courts Act, 1861, (24 & 25 Vict., c 104) and the Chief Courts of the Punjab and Lower Burma, may, from time to time, after previous publication make rules regulating their own procedure and the procedure of the Civil Courts subject to their superintendence, and may by such rules annul, alter or add to all or any of the rules in the First Schedule.

123. (1) A Committee, to be called the Rule Committee, shall be constituted at each of the towns of Calcutta, Madras, Bombay, Allahabad, Lahore and Rangoon.

(2) Each such Committee shall consist of the following persons, namely :—

- (a) three Judges of the High Court established at the town at which such Committee is constituted, one of whom at least has served as a District Judge or (in the Punjab or Burma) a Divisional Judge for three years.
- (b) a barrister practising in that Court,
- (c) an advocate (not being a barrister) or vakil or pleader enrolled in that Court,
- (d) a Judge of a Civil Court subordinate to the High Court, and
- (e) in the towns of Calcutta, Madras and Bombay, an attorney.

(3) The members of each such Committee shall be appointed by the Chief Justice or Chief Judge, who shall also nominate one of their number to be President :

Provided that, if the Chief Justice or Chief Judge elects to be himself a member of a Committee, the number of other Judges appointed to be members shall be two, and the President shall be one of the other members.

(4) Each member of any such Committee shall hold office for such period as may be prescribed by the Chief Justice or Chief Judge in this behalf ; and whenever any member retires, resigns, dies or ceases to reside in the town in which the Committee is constituted, the President shall appoint a new member to fill the vacancy.

(5) There shall be a Secretary to each such Committee who shall be appointed by the Chief Justice or Chief Judge and shall receive such remuneration as may be

provided in this behalf by the Governor-General in Council or by the Local Government, as the case may be.

124. Every Rule Committee shall make a report to the High Court established at the town at which it is constituted on any proposal to annul, alter or add to the rules in the First Schedule or to make new rules, and before making any rules under section 122 the High Court shall take each report into consideration.

125. High Courts, other than the Courts specified in section 122, may exercise the powers conferred by that section in such manner and subject to such conditions as the Governor-General in Council may determine :

Provided that any such High Court may, after previous publication, make a rule extending within the local limits of its jurisdiction any rules which have been made by any other High Court.

126. Rules made under the foregoing provisions shall be subject to the previous sanction of the following authorities, namely :—

- (a) if the rule is made by a High Court established under the Indian High Courts Act, 1861, (21 & 25 Vict., c. 104) to the sanction of the authority prescribed by section 15 of that Act for rules made under that section :
- (b) if the rule is made by any other High Court, to the sanction of the Local Government.

127. Rules so made and sanctioned shall be published in the Gazette of India or in the local official Gazette, as the case may be, and shall from the date of publication or from such other date as may be specified have the same force and effect, within the local limits of the jurisdiction of the High Court which made them, as if they had been contained in the First Schedule,

128. (1) Such rules shall be not inconsistent with ^{Matters for which the provisions in the body of this Code, but, subject thereto, may provide} any matters relating to the procedure of Civil Courts.

(2) In particular, and without prejudice to the generality of the powers conferred by sub-section (1), such rules may provide for all or any of the following matters, namely :—

- (a) the service of summonses, notices and other processes by post or any other manner either generally or in any specified areas and the proof of such service ;
- (b) the maintenance and custody, while under attachment, of live-stock and other moveable property the fees payable for such maintenance and custody, the sale of such live-stock and property and the proceeds of such sale ;
- (c) procedure in suits by way of counter-claim, and the valuation of such suits for the purposes of jurisdiction ;
- (d) procedure in garnishee and charging orders either in addition to, or in substitution for, the attachment and sale of debts ;
- (e) procedure where the defendant claims to be entitled to contribution or indemnity over against any person whether a party to the suit or not ;
- (f) summary procedure—
 - (i) in suits in which the plaintiff seeks only to recover a debt or liquidated demand in money payable by the defendant, with or without interest, arising—
 - on a contract express or implied ; or on an enactment where the sum sought to be recovered is a fixed sum of money or in the nature of a debt other than a penalty ; or

on a guarantee, where the claim against the principal is in respect of a debt or a liquidated demand only ; or

on a trust : or

(u) in suits for the recovery of immoveable property, with or without a claim for rent or mesne profits, by a landlord against a tenant whose term has expired or has been duly determined by notice to quit, or has become liable to forfeiture for non-payment of rent, or against persons claiming under such tenant ;

(g) procedure by way of originating summons ;

(h) consolidation of suits, appeals and other proceedings ;

(i) delegation to any Registrar, Prothonotary or Master or other official of the Court of any judicial, quasi-judicial and non-judicial duties : and

(j) all forms, registers, books, entries and accounts which may be necessary or desirable for the transaction of the business of Civil Courts.

129. Notwithstanding anything in this Code, any

High Court established under the Indian High Courts Act, 1861, (24 & 25 Vict.,

c. 104) may make such rules not inconsistent with the Letters Patent establish-

Power of Chartered
High Courts to make
rules as to their origi-
nal civil procedure

ing it to regulate its own procedure in the exercise of its original civil jurisdiction as it shall think fit, and nothing herein contained shall affect the validity of any such rules in force at the commencement of this Code.

130. A High Court not established under the Indian

High Courts Act, 1861, (24 & 25 Vict.,

c. 104) may, with the previous sanction of the Local Government, make, with

respect to any matter other than proce-

Power of other
High Courts to make
rules as to matters
other than procedure.

cedure, any rule which any High Court so established might,

under section 15 of that Act, make with respect to any such matter for any part of the territories under its jurisdiction which is not included within the limits of a Presidency-town.

131. Rules made in accordance with section 129 or section 130 shall be published in the Publication of rules. Gazette of India or in the local official Gazette, as the case may be, and shall from the date of publication or from such other date as may be specified have the force of law.

PART XI. MISCELLANEOUS.

132. (1) Women who, according to the customs and manners of the country, ought not to be compelled to appear in public shall be exempt from personal appearance in Court.

(2) Nothing herein contained shall be deemed to exempt such women from arrest in execution of civil process in any case in which the arrest of women is not prohibited by this Code.

133. (1) The Local Government may, by notification in the local official Gazette, exempt from personal appearance in Court any person whose rank, in the opinion of such Government, entitle him to the privilege of exemption.

(2) The names and residences of the persons so exempted shall, from time to time, be forwarded to the High Court by the Local Government and list of such persons shall be kept in such Court and a list of such persons reside within the local limits of the jurisdiction of each Court subordinate to the High Court shall be kept in such subordinate Court.

(3) Where any person so exempted claims the privilege of such exemption, and it is consequently necessary

to examine him by commission, he shall pay the costs of that commission, unless the party requiring his evidence pays such costs.

134. The provisions of sections 55, 57 and 59 shall apply, so far as may be, to all persons arrested under this Code.

Arrest other than in execution of decree.

135. (1) No Judge, Magistrate or other judicial officer shall be liable to arrest under civil process while going to, presiding in, or returning from, his Court.

Exemption from arrest under civil process.

(2) Where any matter is pending before a tribunal having jurisdiction therein, or believing in good faith that it has such jurisdiction, the parties thereto, their pleaders, mukhtars, revenue-agents and recognised agents, and their witnesses acting in obedience to a summons, shall be exempt from arrest under civil process, other than process issued by such tribunal for contempt of Court, while going to or attending such tribunal for the purpose of such matter, and while returning from such tribunal.

(3) Nothing in sub-section (2) shall enable a judgment-debtor to claim exemption from arrest under an order for immediate execution or where such judgment-debtor attends to show cause why he should not be committed to prison in execution of a decree.

136. (1) Where an application is made that any person shall be arrested or that any property shall be attached under any provision of this Code not relating to the execution of decrees, and such person resides or such property is situate outside the local limits of the jurisdiction of the Court to which the application is made, the Court may, in its discretion, issue a warrant of arrest or make an order of attachment and send to the District Court within the local limits of whose jurisdiction such person or property resides or is situate a copy of the

Proceedure where person to be arrested or property to be attached is outside district.

warrant or order, together with the probable amount of the costs of the arrest or attachment.

(2) The District Court shall, on receipt of such copy and amount, cause the arrest or attachment to be made by its own officers, or by a Court subordinate to itself and shall inform the Court which issued or made such warrant or order of the arrest or attachment.

(3) The Court making an arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he shows cause to the satisfaction of the former Court why he should not be sent to the latter Court, or unless he furnishes sufficient security for his appearance before the latter Court or for satisfying any decree that may be passed against him by that Court, in either of which cases the Court making the arrest shall release him.

(4) Where a person to be arrested or moveable property to be attached under this section is within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal or at Madras or at Bombay, or of the Chief Court of Lower Burma, the copy of the warrant of arrest or of the order of attachment, and the probable amount of the costs of the arrest or attachment, shall be sent to the Court of Small Causes of Calcutta, Madras, Bombay or Rangoon, as the case may be, and that Court, on receipt of the copy and amount, shall proceed as if it were the District Court.

137. (1) The language which, on the commencement of this Code, is the language of any Court subordinate to a High Court shall continue to be the language of such subordinate Court until the Local Government otherwise directs.

(2) The Local Government may declare what shall be the language of any such Court and in what character applications to and proceedings in such Court shall be written.

(3. Where this Code requires or allows anything other than the recording of evidence to be done in writing in any such Court, such writing may be in English ; but if any party or his pleader is unacquainted with English a translation into the language of the Court shall, at his request, be supplied to him ; and the Court shall make such order as it thinks fit in respect of the payment of the costs of such translation.

138. (1) The Local Government may, by notification in the local official Gazette, direct with respect to any Judge specified in the notification, or falling under a description set forth therein, that evidence in cases in which an appeal is allowed shall be taken down by him in the English language and in manner prescribed.

Power for Local Government to require evidence to be recorded in English

(2) Where a Judge is prevented by any sufficient reason from doing so, the evidence may be taken down by another Judge or by a Magistrate or by a person appointed in this behalf by the Local Government, and the evidence so taken down shall be treated as if it had been taken down by the Judge to whom it is referred.

Oath on affidavit by whom to be administered.

139. In the case of any affidavit under this Code—

- (a) any Court of Magistrate, or
 - (b) any officer or other person whom a High Court may appoint in this behalf, or
 - (c) any officer appointed by any other Court which the Local Government has generally or specially empowered in this behalf,
- may administer the oath to the deponent.

140. (1) In any Admiralty or Vice-Admiralty cause of salvage, towage or collision, the Court, whether it be exercising its original or its appellate jurisdiction, may, if it thinks fit, and shall upon request of either party to such cause, summon to its assistance, in such manner as it may direct or as may be prescribed, two competent assessors ; and such assessors shall attend and assist accordingly.

Assessors in cases of salvage etc

(2) Every such assessor shall receive such fees for his attendance, to be paid by such of the parties as the Court may direct or as may be prescribed.

141. The procedure provided in this Code in regard to suits shall be followed, as far as it can be made applicable, in all proceedings in any Court of civil jurisdiction.

142. All orders and notices served on or given to any person under the provisions of this Code shall be in writing.

143. Postage, where chargeable on a notice, summons or letter issued under this Code and forwarded by post, and the fee for registering the same, shall be paid within a time to be fixed before the communication is made :

Provided that the Local Government, with the previous sanction of the Governor-General in Council, may remit such postage, or fee, or both, or may prescribe a scale of court-fees to be levied in lieu thereof.

144. (1) Where and in so far as a decree is varied or reversed, the Court of first instance shall, on the application of any party entitled to any benefit by way of restitution or otherwise, cause such restitution to be made as will, so far as may be, place the parties in the position which they would have occupied but for such decree or such part thereof as has been varied or reversed ; and, for this purpose, the Court may make any orders, including orders for the refund of costs and for the payment of interest, damages, compensation and mesne profits, which are properly consequential on such variation or reversal.

(2) No suit shall be instituted for the purpose of obtaining any restitution or other relief which could be obtained by application under sub-section (1).

145. Where any person has become liable as surety—

Enforcement of liability of surety.

- (a) for the performance of any decree or any part thereof, or
- (b) for the restitution of any property taken in execution of a decree, or
- (c) for the payment of any money, or for the fulfilment of any condition imposed on any person, under an order of the Court in any suit or in any proceeding consequent thereon.

the decree or order may be executed against him, to the extent to which he has rendered himself personally liable, in the manner herein provided for the execution of decrees, and such person shall, for the purposes of appeal, be deemed a party within the meaning of section 47 :

Provided that such notice as the Court in each case thinks sufficient has been given to the surety.

146. Save as otherwise provided by this Code or by any law for the time being in force, ^{Proceedings by or against representatives.} where any proceeding may be taken or application made by or against any person, then the proceeding may be taken or the application may be made by or against any person claiming under him.

147. In all suits to which any person under disability is a party, any consent or agreement ^{Consent or agreement by persons under disability} as to any proceeding shall, if given or made with the express leave of the Court by the next friend or guardian for the suit, have the same force and effect as if such person were under no disability and had given such consent or made such agreement.

148. Where any period is fixed or granted by the Court for the doing of any act prescribed or allowed by this Code, the Court ^{Enlargement of time.} may, in its discretion, from time to time, enlarge such period, even though the period originally fixed or granted may have expired.

149. Where the whole or any part of any fee prescribed for any document by the law for the time being in force relating to court-fees has not been paid, the Court may, in its discretion, at any stage, allow the person, by whom such fee is payable, to pay the whole or part, as the case may be, of such court-fee ; and upon such payment the document, in respect of which such fee is payable, shall have the same force and effect as if such fee had been paid in the first instance.

150. Save as otherwise provided, where the business of any Court is transferred to any other Court, the Court to which the business is so transferred shall have the same powers and shall perform the same duties as those respectively conferred and imposed by or under this Code upon the Court from which the business was so transferred.

151. Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

152. Clerical or arithmetical mistakes in judgments, decrees or orders or errors arising therefrom or from any accidental slip or omission may at any time be corrected by the Court either of its own motion or on the application of any of the parties.

153. The Court may at any time, and on such terms as to costs or otherwise as it may think fit, amend any defect or error in any proceeding in a suit ; and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on any proceeding.

154. Nothing in this Code shall affect any present ^{existing of present} right of appeal which shall have accrued to any party at its commencement.

155. The ^{Amendment of certain Acts} enactments mentioned in the Fourth Schedule are hereby amended to the extent specified in the fourth column thereof.

156. The ^{Supplies} enactments mentioned in the Fifth Schedule are hereby repealed to the extent specified in the fourth column thereof.

157. Notifications published, declarations and rules ^{Continuance of orders under repealed enactments} made, places appointed, agreements filed, scales prescribed, forms framed, appointments made and powers conferred under Act VIII of 1859 or under any Code of Civil Procedure or any Act amending the same or under any other enactment hereby repealed shall, so far as they are consistent with this Code, have the same force and effect as if they had been respectively published, made, appointed, filed, prescribed, framed and conferred under this Code and by the authority empowered thereby in such behalf.

158. In every enactment or notification passed or ^{in force in Code of Civil Procedure and other repealed enactments} issued before the commencement of this Code in which reference is made to or to any Chapter or section of Act VIII of 1859 or any Code of Civil Procedure or any Act amending the same or any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding Part, Order, section or rule.

The First Schedule.

ORDER I.

Parties to Suits.

RULES.

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11. Conduct of suit.
12. Appearance of one of several plaintiffs or defendants for others.
13. Objections as to non-joinder or mis-joinder.

ORDER II.

Frame of Suit.

1. Frame of suit.
2. Suit to include the whole claim.
Relinquishment of part of claim.
Omission to sue for one of several reliefs.
3. Joinder of causes of action.
4. Only certain claims to be joined for recovery of immovable property.
5. Claims by or against executor, administrator or heir.

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6. Power of Court to order separate trials.
7. Objections as to mis-joinder.

ORDER III.

Recognized Agents and Pleadors.

1. Appearances, etc., may be in person, by recognized agent or by pleader.
2. Recognized agents.
3. Service of process on recognized agent.
4. Appointment of pleader.
5. Service of process on pleader.
6. Agent to accept service.
Appointment to be in writing and to be filed in Court.

ORDER IV.

Institution of Suits.

1. Suit to be commenced by plaint.
2. Register of suits.

ORDER V.

Issue and Service of Summons.

Issue of Summons.

1. Summons.
2. Copy or statement annexed to summons.
3. Court may order defendant or plaintiff to appear in person.
4. No party to be ordered to appear in person unless resident within certain limits.
5. Summons to be either to settle issues or for final disposal.
6. Fixing day for appearance of defendant.
7. Summons to order defendant to produce documents relied on by him.
8. On issue of summons for final disposal, defendant to be directed to produce his witnesses.

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1. Who may be joined as plaintiffs.
2. Power of Court to order separate trials.
3. Who may be joined as defendants.
4. Court may give judgment for or against one or more of joint parties.
5. Defendant need not be interested in all the relief claimed.
6. Joinder of parties liable on same contract.
7. When plaintiff in doubt from whom redress is to be sought.
8. One person may sue or defend on behalf of all in same interest.
9. Mis-joinder and non-joinder.
10. Suit in name of wrong plaintiff.
Court may strike out or add parties.
Where defendant added, plaint to be amended.
11. Conduct of suit.
12. Appearance of one of several plaintiffs or defendants for others.
13. Objections as to non-joinder or mis-joinder.

ORDER II.*Frame of Suit.*

1. Frame of suit.
2. Suit to include the whole claim.
Relinquishment of part of claim.
Omission to sue for one of several reliefs.
3. Joinder of causes of action.
4. Only certain claims to be joined for recovery of immoveable property.
5. Claims by or against executor, administrator or heir.

RULES.

ORDER VI.

Pleadings generally.

1. Pleading.
2. Pleading to state material facts and not evidence.
3. Forms of pleading.
4. Particulars to be given where necessary.
5. Further and better statement, or particulars.
6. Condition precedent.
7. Departure.
8. Denial of contract.
9. Effect of document to be stated.
10. Malice, knowledge, etc.
11. Notice.
12. Implied contract, or relation.
13. Presumptions of law.
14. Pleading to be signed.
15. Verification of pleadings.
16. Striking out pleadings.
17. Amendment of pleadings.
18. Failure to amend after order.

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1. Particulars to be contained in plaint.
 2. In money suits.
 3. Where the subject-matter of the suit is immovable property.
 4. When subject-matter is movable.
 5. In suits for specific performance.
 6. In suits for injunction.
 7. In suits for declaration.
 8. In suits for rectification of instruments.
 9. In suits for partition.
 10. Return of plaint.
- Procedure on returning plaint.

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11. Rejection of plaint.
12. Procedure on rejecting plaint.
13. Where rejection of plaint does not preclude presentation of fresh plaint.

Documents relied on in plaint.

14. Production of document on which plaintiff sues.
List of other documents.
15. Statement in case of documents not in his possession or power
16. Suits on lost negotiable instruments.
17. Production of shop-book
Original entry to be marked and returned.
18. Inadmissibility of document not produced when plaint filed

ORDER VIII.*Written Statement and Set-off.*

1. Written statement.
2. New facts must be specially pleaded.
3. Denial to be specific.
4. Evasive denial
5. Specific denial
6. Particulars of set-off to be given in written statement.
Effect of set-off.
7. Defence or set-off founded on separate grounds.
8. New ground of defence.
9. Subsequent pleadings
10. Procedure when party fails to present written statement called for by Court.

ORDER IX.*Appearance of Parties and Consequence of Non-appearance.*

1. Parties to appear on day fixed in summons
defendant to appear and answer.

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2. Dismissal of suit where summons not served in consequence of plaintiff's failure to pay costs.
 3. Where neither party appears, suit to be dismissed.
 4. Plaintiff may bring fresh suit or Court may restore suit to file.
 5. Dismissal of suit where plaintiff, after summons returned unserved, fails for a year to apply for fresh summons.
 6. Procedure when only plaintiff appears.
When summons duly served.
When summons not duly served.
When summons served, but not in due time.
 7. Procedure where defendant appears on day of adjourned hearing and assigns good cause for previous non-appearance.
 8. Procedure where defendant only appears.
 9. Decree against plaintiff by default bars fresh suit.
 10. Procedure in case of non-attendance of one or more of several plaintiffs.
 11. Procedure in case of non-attendance of one or more of several defendants.
 12. Consequence of non-attendance, without sufficient cause shown, of party ordered to appear in person.
- Setting aside Decree ex parte.*
13. Setting aside decree ex parte against defendant.
 14. No decree to be set aside without notice to opposite party.

ORDER X.

Examination of Parties by the Court.

1. Ascertainment whether allegations in pleading are admitted or denied.
2. Oral examination of party, or party.

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4. Notice to admit facts.
5. Form of admissions.
6. Judgment on admissions.
7. Affidavit of signature.
8. Notice to produce documents.
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1. Documentary evidence to be produced at first hearing.
2. Effect of non-production of documents.
3. Rejection of irrelevant or inadmissible documents.
4. Endorsements on documents admitted in evidence.
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6. Endorsements on documents rejected as inadmissible in evidence.
7. Recording of admitted and return of rejected documents.
8. Court may order any document to be impounded.
9. Return of admitted documents.
10. Court may send for papers from its own records or from other Courts.
11. Provisions as to documents applied to material objects.

ORDER XIV.

Settlement of Issues and determination of Suit on Issues of Law or on Issues agreed upon.

1.
2. 1.
3.
4. Court may examine witnesses or documents before

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5. Power to amend, and strike out, issues.
6. Questions of fact or law may by agreement be stated in form of issues.
7. Court, if satisfied that agreement was executed in good faith, may pronounce judgment.

ORDER XV.

Disposal of the Suit at the first hearing.

1. Parties not at issue.
2. One of several defendants not at issue.
3. Parties at issue
4. Failure to produce evidence.

ORDER XVI.

Summoning and Attendance of Witnesses.

1. Summons to attend to give evidence or produce documents.
- 2 Expenses of witness to be paid into Court on applying for summons.
Experts.
Scale of expenses.
3. Tender of expenses to witness.
4. Procedure where insufficient sum paid in.
Expenses of witnesses detained more than one day.
5. Time, place and purpose of attendance to be specified in summons
- 6 Summons to produce document.
7. Power to require persons present in Court to give evidence or produce document.
8. Summons how served.
9. Time for serving summons.
10. Procedure where witness fails to comply with summons.
11. If witness appears, attachment may be withdrawn.
12. Procedure if witness fails to appear.
13. Mode of attachment.

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14. Court may of its own accord summon as witnesses strangers to suit.
15. Duty of persons summoned to give evidence or produce document.
16. When they may depart.
17. Application of rules 10 to 13.
18. Procedure where witness apprehended cannot give evidence or produce document.
19. No witness to be ordered to attend in person unless resident within certain limits.
20. Consequence of refusal of party to give evidence when called on by Court.
21. Rules as to witnesses to apply to parties summoned.

ORDER XVII.

Adjournments.

1. Court may grant time and adjourn hearing. Costs of adjournment.
2. Procedure if parties fail to appear on day fixed.
3. Court may proceed notwithstanding either party fails to produce evidence, etc.

ORDER XVIII.

Hearing of the Suit and Examination of Witnesses.

1. Right to begin.
2. Statement and production of evidence.
3. Evidence where several issues.
4. Witnesses to be examined in open Court.
5. How evidence shall be taken in appealable cases.
6. When deposition to be interpreted.
7. Evidence under section 138.
8. Memorandum when evidence not taken down by Judge.
9. When evidence may be taken in English.
10. Any particular question and answer may be taken down.

RULES.

5. Power to amend, and strike out, issues.
6. Questions of fact or law may by agreement be stated in form of issues.
7. Court, if satisfied that agreement was executed in good faith, may pronounce judgment.

ORDER XV.

Disposal of the Suit at the first hearing.

1. Parties not at issue.
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2. Expenses of witness to be paid into Court on applying for summons.
Experts.
Scale of expenses.
3. Tender of expenses to witness.
4. Procedure where insufficient sum paid in.
Expenses of witnesses detained more than one day.
5. Time, place and purpose of attendance to be specified, in summons
6. Summons to produce document.
7. Power to require persons present in Court to give evidence or produce document.
8. Summons how served.
9. Time for serving summons.
10. Procedure where witness fails to comply with summons
11. If witness appears, attachment may be withdrawn.
12. Procedure if witness fails to appear.
13. Mode of attachment.

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13. Decree in administration suit.
14. " " " " " partnership.
15. " " " " " partnership.
16. Decree in suit for account between principal and agent.
17. Special directions as to accounts.
18. Decree in suit for partition of property or separate possession of a share therein.
19. Decree when set-off is allowed.
Appeal from decree relating to set-off.
20. Certified copies of judgment and decree to be furnished.

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*Execution of Decrees and Orders.**Payment under Decree.*

1. Modes of paying money under decree.
2. Payment out of Court to decree-holder.

Courts executing Decrees.

3. Lands situate in more than one jurisdiction.
4. Transfer to Court of Small Causes.
5. Mode of transfer.
6. Procedure where Court desires that its own decree shall be executed by another Court.
7. Court receiving copies of decree, etc., to file same without proof.
8. Execution of decree or order by Court to which it is sent.
9. Execution by High Court of decree transferred by other Court.

Application for execution.

10. Application for execution.
11. Oral application.
Written application.

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12. Application for attachment of moveable property not in judgment-debtor's possession.
13. Application for attachment of immoveable property to contain certain particulars.
14. Power to require certified extract from Collector's register in certain cases.
15. Application for execution by joint decree-holder.
16. Application for execution by transferee of decree.
17. Procedure on receiving application for execution of decree.
18. Execution in case of cross-decrees.
19. Execution in case of cross-claims under same decree.
20. Cross-decrees and cross-claims in mortgage-suits.
21. Simultaneous execution.
22. Notice to show cause against execution in certain cases.
23. Procedure after issue of notice.

Process for execution.

24. Process for execution.
25. Endorsement on process.

Stay of execution.

26. When Court may stay execution.
Power to require security from, or impose conditions upon, judgment-debtor.
27. Liability of judgment-debtor discharged.
28. Order of Court which passed decree or of appellate Court to be binding upon Court applied to.
29. Stay of execution pending suit between decree-holder and judgment-debtor.

Mode of execution.

30. Decree for payment of money.
31. Decree for specific moveable property.

REVENUE.

32. Decree for specific performance for restitution of conjugal rights or for an injunction.
33. Discretion of Court in executing decrees for restitution of conjugal rights.
34. Decree for execution of document, or endorsement of negotiable instrument.
35. Decree for immovable property.
36. Decree for delivery of immovable property when in occupancy of tenant.

Arrest and detention in the civil prison.

37. Discretionary power to permit judgment-debtor to show
38. Warrant for he brought up.
39. Subsistence-allowance.
40. Proceedings on appearance of judgment-debtor in obedience to notice or after arrest.

Attachment of property.

41. Examination of judgment-debtor as to his property.
42. Attachment in case of decree for rent or mesne profits or other matter, amount of which to be subsequently determined.
43. Attachment of moveable property, other than agricultural produce, in possession of judgment-debtor.
44. Attachment of agricultural produce.
45. Provisions as to agricultural produce under attachment.
46. Attachment of debt, share and other property not in possession of judgment-debtor.
47. Attachment of share in moveables.
48. Attachment of salary or allowances of public officer or servant of railway company or local authority.

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Where decree-holder purchases, amount of decree may be taken as payment.

73. Restriction on bidding or purchase by officers.

Sale of moveable property.

74. Sale of agricultural produce.
 75. Special provisions relating to growing crops.
 76. Negotiable instruments and shares in corporations.
 77. Sale by public auction.
 78. Irregularity not to vitiate sale, but any person injured may sue.
 79. Delivery of moveable property, debts and shares.
 80. Transfer of negotiable instruments and shares.
 81. Vesting order in case of other property.

Sale of immovable property.

82. What Courts may order sale.
 83. Postponement of sale to enable judgment-debtor to raise amount of decree.
 84. Deposit by purchaser and re-sale on default.
 85. Time for payment in full of purchase-money.
 86. Procedure in default of payment.
 87. Notification on re-sale.
 88. Bid of co-sharer to have preference.
 89. Application to set aside sale on deposit.
 90. Application to set aside sale on ground of irregularity or fraud.
 91. Application by purchaser to set aside sale on ground of judgment-debtor having no saleable interest.
 92. Sale when to become absolute or be set aside.
 93. Return of purchase-money in certain cases.
 94. Certificate to purchaser.
 95. Delivery of property in occupancy of judgment-debtor.
 96. Delivery of property in occupancy of tenant.

Resistance to delivery of possession to decree-holder or purchaser.

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97. Resistance or obstruction to possession of immoveable property.
98. Resistance or obstruction by judgment-debtor.
99. Resistance or obstruction by *bona fide* claimant.
100. Dispossession by decree-holder or purchaser.
101. *Bona fide* claimant to be restored to possession.
102. Rules not applicable to transferee *litis pendente*.
103. Orders conclusive subject to regular suit.

ORDER XXII.

Death, Marriage and Insolvency of Parties.

1. No abatement by party's death, if right to sue survives.
2. Procedure where one of several plaintiffs or defendants dies and right to sue survives.
3. Procedure in case of death of one of several plaintiffs or of sole plaintiff.
4. Procedure in case of death of one of several defendants or of sole defendant.
5. Determination of question as to legal representative.
6. No abatement by reason of death after hearing.
7. Suit not abated by marriage of female party.
8. When plaintiff's insolvency bars suit.
Procedure where assignee fails to continue suit or give security.
9. Effect of abatement or dismissal.
10. Procedure in case of assignment before final order in suit.
11. Application of Order to appeals.
12. Application of Order to proceedings.

ORDER XXIII.

Withdrawal and Adjustment of Suits.

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1. Withdrawal of suit or abandonment of part of claim.
2. Limitation law not affected by first suit.
3. Compromise of suit.
4. Proceedings in execution of decrees not affected.

ORDER XXIV.

Payment into Court.

1. Deposit by defendant of amount in satisfaction of claim.
2. Notice of deposit.
3. Interest on deposit not allowed to plaintiff after notice.
4. Procedure where plaintiff accepts deposit as satisfaction in part.
Procedure where he accepts it as satisfaction in full.

ORDER XXV.

Security for Costs.

1. When security for costs may be required from plaintiff.
Residence out of British India.
2. Effect of failure to furnish security.

ORDER XXVI.

*Commissions.**Commissions to examine witnesses.*

1. Cases in which Court may issue commission to examine witness.
2. Order for commission.
3. Where witness resides within Court's jurisdiction.
4. Persons for whose examination commission may issue.

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5. Commission or Request to examine witness within British India.
6. Court to examine witness pursuant to commission.
7. Return of commission with depositions of witnesses.
8. When depositions may be read in evidence.
Commissions for local investigations.
9. Commissions to make local investigations.
10. Procedure of Commissioner.
Report and depositions to be evidence in suit.
Commissioner may be examined in person.
Commissions to examine accounts.
11. Commission to examine or adjust accounts.
12. Court to give Commissioner necessary instructions.
Proceedings and report to be evidence.
Court may direct further inquiry.
Commissions to make partitions.
13. Commission to make partition of immovable property.
14. Procedure of Commissioner.
General provisions.
15. Expenses of commission to be paid into Court
16. Powers of Commissioners.
17. Attendance and examination of witnesses before Commissioner.
18. Parties to appear before Commissioner.

ORDER XXVII.

Suits by or against the Government or Public Officers in their official capacity.

1. Suits by or against Government.
2. Persons authorized to act for Government.

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3. Complaints in suits by or against Government.
4. Agent for Government to receive process.
5. Fixing of day for appearance on behalf of Government.
6. Attendance of person able to answer questions relating to suit against Government.
7. Extension of time to enable public officer to make reference to Government.
8. Procedure in suits against public officer.

ORDER XXVIII.

Suits by or against Military Men.

1. Officers or soldiers who cannot obtain leave may authorize any person to sue or defend for them.
2. Persons so authorized may act personally or appoint pleader.
3. Service on person so authorized, or on his pleader, to be good service.

ORDER XXIX.

Suits by or against Corporations.

1. Subscription and verification of pleading.
2. Service on corporation.
3. Power to require personal attendance of officer of corporation.

ORDER XXX.

Suits by or against Firms and Persons carrying on business in names other than their own.

1. Suing of partners in name of firm.
2. Disclosure of partners' names.
3. Service.
4. Right of suit on death of partner.
5. Notice in what capacity served.
6. Appearance of partners.
7. No appearance except by partners.

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8. Appearance under protest.
9. Suits between co-partners.
10. Suit against person carrying on business in name other than his own.

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Suit by or against Trustees, Executors and Administrators

1. Representation of beneficiaries in suits concerning property vested in trustees, etc.
2. Joinder of trustees, executors and administrators.
3. Husband of married executrix not to join.

ORDER XXXII.

Suits by or against Minors and Persons of Unsound Mind.

1. Minor to sue by next friend.
2. Where suit is instituted without next friend, plaint to be taken off the file.
3. Guardian for the suit to be appointed by Court for minor defendant.
4. Who may act as next friend or be appointed guardian for the suit.
5. Representation of minor by next friend or guardian for the suit.
6. Receipt by next friend or guardian for the suit of property under decree for minor.
7. Agreement or compromise by next friend or guardian for the suit.
8. Retirement of next friend.
9. Removal of next friend.
10. Stay of proceedings on removal, etc., of next friend.
11. Retirement, removal or death of guardian for the suit.

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3. Agreement to be filed and registered as suit.
4. Parties to be subject to Court's jurisdiction.
5. Hearing and disposal of case.

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Summary Procedure on Negotiable Instruments.

1. Application of Order.
2. Institution of summary suits upon bills of exchange, etc.
3. Defendant showing defence on merits to have leave to appear.
4. Power to set aside decree.
5. Power to order bill, etc., to be deposited with officer of Court.
6. Recovery of cost of noting non-acceptance of dishonoured bill or note.
7. Procedure in suits.

ORDER XXXVIII.

*Arrest and Attachment before judgment.**Arrest before judgment.*

1. Where defendant may be called upon to furnish security for appearance.
2. Security.
3. Procedure on application by surety to be discharged.
4. Procedure where defendant fails to furnish security or find fresh security.

Attachment before judgment.

5. Where defendant may be called upon to furnish security for production of property.
6. Attachment where cause not shown or security not furnished.
7. Mode of making attachment.

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8. Investigation of claim to property attached before judgment.
9. Removal of attachment when security furnished or suit dismissed.
10. Attachment before judgment not to affect rights of strangers, nor bar decree-holder from applying for sale.
11. Property attached before judgment not to be re-attached in execution of decree.
12. Agricultural produce not attachable before judgment.

ORDER XXXIX.

*Temporary Injunctions and Interlocutory Orders.**Temporary injunctions.*

1. Cases in which temporary injunction may be granted.
2. Injunction to restrain repetition or continuance of breach.
3. Before granting injunction. Court to direct notice to opposite party.
4. Order for injunction may be discharged, varied or set aside.
5. Injunction to corporation binding on its officers.

Interlocutory orders.

6. Power to order interim sale.
7. Detention, preservation, inspection, etc., of subject-matter of suit.
8. Application for such orders to be after notice.
9. When party may be put in immediate possession of land the subject-matter of suit.
10. Deposit of money, etc., in Court.

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Appointment of Receivers.

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1. Appointment of receivers.
2. Remuneration.
3. Duties.
4. Enforcement of receiver's duties.
5. When Collector may be appointed receiver.

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1. Form of appeal.
What to accompany memorandum.
Contents of memorandum
2. Grounds which may be taken in appeal
3. Reimbursement
4. ()
Where decree is appealed from it proceeds on ground common to all.

Stay of proceedings and of execution.

5. Stay by Appellate Court.
Stay by Court which passed the decree.
6. Security in case of order for execution of decree appealed from.
7. No security to be required from the Government or a public officer in certain cases.
8. Exercise of powers in appeal from order made in execution of decree.

Procedure on admission of appeal.

9. Registry of memorandum of appeal.
Register of appeals.
10. Appellate Court may require appellant to furnish security for costs.
Where appellant resides out of British India.

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11. Power to dismiss appeal without sending notice to Lower Court.
12. Day for hearing appeal.
13. Appellate Court to give notice to Court whose decree appealed from.
Transmission of papers to Appellate Court.
Copies of exhibits in Court whose decree appealed from.
14. Publication and service of notice of day for hearing appeal.
Appellate Court may itself cause notice to be served.
15. Contents of notice.

Procedure on hearing.

16. Right to begin.
17. Dismissal of appeal for appellant's default.
Hearing appeal *ex parte*
18. Dismissal of appeal where notice not served in consequence of appellant's failure to deposit costs
19. Re-admission of appeal dismissed for default.
20. Power to adjourn hearing, and direct persons appearing interested to be made respondents
21. Re-hearing on application of respondent against whom *ex parte* decree made.
22. Upon hearing, respondent may object to decree as if he had preferred separate appeal.
Form of objection and provisions applicable thereto.
23. Remand of case by Appellate Court.
24. Where evidence on record insufficient, Appellate Court may determine case finally.
25. Where Appellate Court may frame issues and refer them for trial to Court whose decree appealed from.

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26. Findings and evidence to be put on record.
Objections to finding.
Determination of appeal.
27. Production of additional evidence in Appellate Court.
28. Mode of taking additional evidence.
29. Points to be defined and recorded.

Judgment in appeal.

30. Judgment when and where pronounced.
31. Contents, date and signature of judgment.
32. What judgment may direct.
33. Power of Court of Appeal.
34. Dissent to be recorded.

Decree in appeal.

35. Date and contents of decree.
Judge dissenting from judgment need not sign decree.
36. Copies of judgment and decrees to be furnished to parties.
37. Certified copy of decree to be sent to Court whose decree appealed from.

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1. Procedure.

ORDER XLIII.

Appeals from Orders.

1. Appeals from orders.
2. Procedure.

ORDER XLIV.

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1. Who may appeal as pauper.

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- Procedure on application for admission of appeal.*
 2. Inquiry into pauperism.

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1. "Decree" defined.
2. Application to Court whose decree complained of.
3. Certificate as to value or fitness.
4. Consolidation of suits.
5. Remission of dispute to Court of first instance.
6. Effect of refusal of certificate.
7. Security and deposit required on grant of certificate.
8. Admission of appeal and procedure thereon.
9. Revocation of acceptance of security.
10. Power to order further security or payment.
11. Effect of failure to comply with order.
12. Refund of balance deposit.
13. Powers of Court pending appeal.
14. Increase of security found inadequate.
15. Procedure to enforce orders of King in Council.
16. Appeal from order relating to execution.

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1. Reference of question to High Court.
2. Court may pass decree contingent upon decision of High Court.
3. Judgment of High Court to be transmitted, and case disposed of accordingly.
4. Costs of reference to High Court.
5. Power to alter, etc., decree of Court making reference.
6. Power to refer to High Court questions as to jurisdiction in small causes.

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7. Power to District Court to submit for revision proceedings had under mistake as to jurisdiction in small causes.

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1. Application for review of judgment.
2. To whom applications for review may be made.
3. Form of applications for review.
4. Application where rejected.
Application where granted.
5. Application for review in Court consisting of two or more Judges.
6. Application where rejected.
7. Order of rejection not appealable.
Objections to order granting application.
8. Registry of application granted, and order for rehearing.
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1. Process to be served at expense of party issuing.
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1. Who may serve processes of High Court.
2. Saving in respect of Chartered High Courts.
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ORDER L.

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1. *Provincial Small Cause Courts.*

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1. Presidency Small Cause Courts.

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A.—PLEADINGS.

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(Order I.—Parties to Suits. Order II.—Frame of Suit.)

(The marginal references are to Orders of the English Rules.)

The First Schedule.

ORDER I.

Parties to Suits.

1. All persons may be joined in one suit as plaintiffs in whom any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is

Who may be joined as plaintiffs.

alleged to exist, whether jointly, severally or in the alternative, where, if such persons brought separate suits, any common question of law or fact would arise.

2. Where it appears to the Court that any joinder of plaintiffs may embarrass or delay the trial of the suit, the Court may put the plaintiffs to their election or order separate trials or make such other order as may be expedient.

3. All persons may be joined as defendants against whom any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist, whether jointly, severally or in the alternative, where if separate suits were brought against such persons any common question of law or fact would arise.

4. Judgment may be given without any amendment—

(a) for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to ;

(b) against such one or more of the defendants as may be found to be liable, according to their respective liabilities.

5. It shall not be necessary that every defendant shall be interested as to all the relief claimed in any suit against him.

6. The plaintiff may, at his option, join as parties to the suit one or more persons who are jointly or severally liable on any one or more contracts, accounts, bills of exchange, hundis and promissory notes.

7. Where the plaintiff is in doubt as to the person from whom he is entitled to obtain redress, he may join two or more defendants in order that the question as to which of the defendants is liable, and to what extent, may be determined as between all parties.

8. (1) Where there are numerous persons having the same interest in one suit, one or more of such persons may, with the permission of the Court, sue or be sued, or may defend, in such suit, on behalf of or for the benefit of all persons so interested. But the Court shall in such case give, at the plaintiff's expense, notice of the institution of the suit to all such persons either by personal service or, where from the number of persons or any other cause such service is not reasonably practicable, by public advertisement, as the Court in each case may direct.

(2) Any person on whose behalf or for whose benefit a suit is instituted or defended under sub-rule (1) may apply to the Court to be made a party to such suit.

9. No suit shall be defeated by reason of the misjoinder and non-joinder of parties, and the Court may in every suit deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.

10. (1) Where a suit has been instituted in the name of the wrong person as plaintiff or where it is doubtful whether it has been instituted in the name of the right plaintiff, the Court may at any stage of the suit, if satisfied that the suit has been instituted through a bona fide mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person to be substituted or added as plaintiff upon such terms as the Court thinks just.

(2) The Court may at any stage of the proceedings either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name

of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

(3) No person shall be added as a plaintiff suing without a next friend or as the next friend of a plaintiff under any disability without his consent.

(4) Where a defendant is added, the plaint shall, unless the Court otherwise directs, be amended in such manner as may be necessary, and amended copies of the summons and of the plaint shall be served on the new defendant and, if the Court thinks fit, on the original defendant.

Where defendant added plaintiff to be amended.

(5) Subject to the provisions of the Indian Limitation Act, 1877, (XV of 1877), section 22, the proceedings against any person added as defendant shall be deemed to have begun only on the service of the summons.

11. The Court may give the conduct of the suit to such person as it deems proper.

Conduct of suit

12. (1) Where there are more plaintiffs than one, any one or more of them may be authorized by any other of them to appear, plead or act for such other in any proceeding: and in like manner, where

Appearance of one of several plaintiffs or defendants for others

there are more defendants than one, any one or more of them may be authorized by any other of them to appear, plead or act for such other in any proceeding.

(2) The authority shall be in writing signed by the party giving it and shall be filed in Court.

13. All objections on the ground of non-joinder or misjoinder of parties shall be taken at the earliest possible opportunity and, in all cases where issues are settled, at or

Objected as to non joinder or misjoinder

before such settlement, unless the ground of objection has subsequently arisen, and any such objection not so taken shall be deemed to have been waived.

ORDER II.

Frame of Suit.

1. Every suit shall as far as practicable be framed so as to afford ground for final decision upon the subjects in dispute and to prevent further litigation concerning them.

Frame of suit.

2. (1) Every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court.

Suit to include the whole claim

(2) Where a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

Relinquishment of part of claim

(3) A person entitled to more than one relief in respect of the same cause of action may sue for all or any of such reliefs; but if he omits, except with the leave of the Court, to sue for all such reliefs, he shall not afterwards sue for any relief so omitted.

Omission to sue for one of several reliefs

Explanation — For the purposes of this rule an obli-

Order II.—Frame of Suit. Order III.—Recognized Agents and Pleadings. Order IV.—Institution of Suits.

Illustration.

A lets a house to B at a yearly rent of Rs. 1,200. The rent for the whole of the years 1905, 1906 and 1907 is due and unpaid. A sues B in 1908 only for the rent due for 1906. A shall not afterwards sue B for the rent due for 1905 or 1907.

3. Save as otherwise provided, a plaintiff may unite in the same suit several causes of action against the same defendant, or the same defendants jointly; and any plaintiffs having causes of action in which they are jointly interested against the same defendant or the same defendants jointly may unite such causes of action in the same suit.

(2) Where causes of action are united, the jurisdiction of the Court as regards the suit shall depend on the amount or value of the aggregate subject-matters at the date of instituting the suit.

4. No cause of action shall, unless with the leave of the Court, be joined with a suit for the recovery of immovable property, except—

- (a) claims for mesne-profits or arrears of rent in respect of the property claimed or any part thereof ;
- (b) claims for damages for breach of any contract under which the property or any part thereof is held ; and
- (c) claims in which the relief sought is based on the same cause of action :

Provided that nothing in this rule shall be deemed to prevent any party in a suit for foreclosure or redemption from asking to be put into possession of the mortgaged property.

5. No claim by or against an executor, administrator or heir as such shall be joined with claims by or against him personally, unless the last mentioned claims are alleged to arise with reference to the estate in respect of which the plaintiff or defendant sues or is sued as executor, administrator or heir, or are such as he was entitled to, or liable for, jointly with the deceased person whom he represents.

6. Where it appears to the Court that any causes of action joined in one suit cannot be conveniently tried or disposed of together, the Court may order separate trials or make such other order as may be expedient.

7. All objections on the ground of misjoinder of causes of action shall be taken at the earliest possible opportunity and, in all cases where issues are settled, at or before such settlement, unless the ground of objection has subsequently arisen, and any such objection not so taken shall be deemed to have been waived.

ORDER III.

Recognized Agents and Pleadors.

1. Any appearance, application or act in or to any Court, required or authorized by law to be made or done by a party in such Court, may except where otherwise expressly provided by any law for the time being in force, be made or done by the party in person, or by his recognized agent or by a pleader duly appointed to act on his behalf:

Provided that any such appearance shall, if the Court so directs, be made by the party in person.

2. The recognized agents of parties by whom such appearances, applications and acts may be made or done are—

- (a) persons holding powers-of-attorney, authorizing them to make and do such appearances, applications and acts on behalf of such parties ;
- (b) persons carrying on trade or business for and in the names of parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application or act is made or done, in matters connected with such trade or business only, where no other agent is expressly authorized to make and do such appearances, applications and acts.

3. (1) Processes served on the recognized agent of a party shall be as effectual as if the same had been served on the party in person, unless the Court otherwise directs.

(2) The provisions for the service of process on a party to a suit shall apply to the service of process on his recognized agent.

4. (1) The appointment of a pleader to make or do any appearance, application or act for any person shall be in writing, and shall be signed by such person or by his recognized agent or by some other person duly authorized by power-of-attorney to act in this behalf.

(2) Every such appointment, when accepted by a pleader, shall be filed in Court, and shall be considered to be in force until determined with the leave of the Court, by a writing signed by the client or the pleader, as the case may be, and filed in Court, or until the client or the pleader dies or until all proceedings in the suit are ended so far as regards the client.

No party to be ordered to appear in person unless resident within certain limits.

4. No party shall be ordered appear in person unless he resides—

- (a) within the local limits of the Court's ordinary original jurisdiction, or
- (b) without such limits but at a place less than five or (where there is railway or steamer communication or other established public conveyance for five-sixths of the distance between the place where he resides and the place where the Court is situate) less than two hundred miles distance from the court-house.

5. The Court shall determine, at the time of issuing the summons, whether it shall be for the settlement of issues only, or for the final disposal of the suit: and the summons shall contain a direction accordingly:

Provided that, in every suit heard by a Court of Small Causes, the summons shall be for the final disposal of the suit.

6. The day for the appearance of the defendant shall be fixed with reference to the current business of the Court, the place of residence of the defendant and the time necessary for the service of the summons; and the day shall be so fixed as to allow the defendant sufficient time to enable him to appear and answer on such day.

7. The summons to appear and answer shall also direct the defendant to produce all documents in his possession or power upon which he intends to rely in support of his case.

8. Where the summons is for the final disposal of the suit, it shall also direct the defendant to produce, on the day fixed for his appearance, all witnesses upon whose evidence he intends to rely in support of his case.

Service of Summons.

9. (1) Where the defendant resides within the jurisdiction of the Court in which the suit is instituted, or has an agent resident within that jurisdiction who is empowered to accept the service of the summons, the summons shall, unless the Court otherwise directs, be delivered or sent to the proper officer to be served by him or one of his subordinates.

(2) The proper officer may be an officer of a Court other than that in which the suit is instituted, and, where he is such an officer, the summons may be sent to him by post or in such other manner as the Court may direct.

10. Service of the summons shall be made by delivering or tendering a copy thereof signed by the Judge or such officer as he appoints in this behalf, and sealed with the seal of the Court.

11. Save as otherwise prescribed, where there are more defendants than one, service of the summons shall be made on each defendant.

12. Wherever it is practicable, service shall be made on the defendant in person, unless he has an agent empowered to accept service, in which case service on such agent shall be sufficient.

13. (1) In a suit relating to any business or work against a person who does not reside within the local limits of the jurisdiction of the Court from which the summons is issued, service on any manager or agent, who, at the time of service, personally carries on such business or work for such person within such limits, shall be deemed good service.

(2) Service substituted by order of the Court shall be as effectual as if it had been made on the defendant personally.

Effect of substituted service.

(3) Where service is substituted by order of the Court the Court shall fix such time for the appearance of the defendant as the case may require.

Where service substituted time for appearance to be fixed.

21. A summons may be sent by the Court by which it is issued, whether within or without the province, either by one of its officers or by post to any Court (not being the High Court) having jurisdiction in the place where the defendant resides.

Service of summons where defendant resides within jurisdiction of another Court.

22. Where a summons issued by any Court established beyond the limits of the towns of Calcutta, Madras, Bombay and Rangoon is to be served within any such limits it shall be sent to the Court of Small Causes within whose jurisdiction it is to be served.

Service, within Presidencies, of summons issued by Courts outside.

23. The Court to which a summons is sent under rule 21 or rule 22 shall, upon receipt thereof, proceed as if it had been issued by such Court and shall then return the summons to the Court of issue, together with the record (if any) of its proceedings with regard thereto.

Duty of Court to which summons is sent.

24. Where the defendant is confined in a prison, the summons shall be delivered or sent by post or otherwise to the officer in charge of the prison for service on the defendant.

Service on defendant in prison.

25. Where the defendant resides out of British India and has no agent in British India, the summons shall be addressed to the defendant at the place where he is residing.

Service where defendant resides out of British India, and has no agent.

and sent to him by post, if there is postal communication between such place and the place where the Court is situate.

Service in foreign
territory through Political Agent or Court

26. Where—

- (a) in the exercise of any foreign jurisdiction vested in His Majesty or in the Governor-General in Council, a Political Agent has been appointed, or a Court has been established or continued, with power to serve a summons issued by a Court under this Code in any foreign territory in which the defendant resides, or
- (b) the Governor-General in Council has, by notification in the Gazette of India, declared that any summons so issued may be served by any Court situate in any such territory and not established or continued in the exercise of such jurisdiction as aforesaid.

the summons may be sent to such Political Agent or Court, by post or otherwise, for the purpose of being served upon the defendant: and, if the Political Agent or Court returns the summons with an endorsement signed by such Political Agent or by the Judge or other officer of the Court that the summons has been served on the defendant in manner hereinbefore directed such endorsement shall be deemed to be evidence of service.

27. Where the defendant is a public officer not belonging to His Majesty's military or naval forces or His Majesty's Indian Marine Service,) or is the servant of a Railway Company or local authority,

Service on civil public
officer or on servant of
railway company or local
authority

the Court may, if it appears to it that the summons may be most conveniently so served, send it for service on the defendant to the head of the office in which he is employed, together with a copy to be retained by the defendant.

28. Where the defendant is a soldier, the Court shall send the summons for service to his commanding officer together with a copy to be retained by the defendant.

Service on soldiers.

29. (1) Where a summons is delivered or sent to any person for service under rule 24, rule 27 or rule 28, such person shall be bound to serve it, if possible, and to return it under his signature, with the written acknowledgment of the defendant, and such signature shall be deemed to be evidence of service.

Duty of person to whom summons is delivered or sent for service.

(2) Where from any cause service is impossible, the summons shall be returned to the Court with a full statement of such cause and of the steps taken to procure service, and such statement shall be deemed to be evidence of non-service.

30. (1) The Court may, notwithstanding anything hereinbefore contained, substitute for a summons a letter signed by the Judge or such officer as he may appoint in this behalf, where the defendant is, in the opinion of the Court, of a rank entitling him to such mark of consideration.

Substitution of letter for summons.

(2) A letter substituted under sub-rule (1) shall contain all the particulars required to be stated in a summons, and, subject to the provisions of sub-rule (3), shall be treated in all respects as a summons.

(3) A letter so substituted may be sent to the defendant by post or by a special messenger selected by the Court, or in any other manner which the Court thinks fit, and, where the defendant has an agent empowered to accept service, the letter may be delivered or sent to such agent.

ORDER VI.

Pleadings generally.

Pleadings.

1. "Pleading" shall mean plaint or written statement.

2. Every pleading shall contain, and contain only, a statement in a concise form of the material facts on which the party pleading relies for his claim or defence, as the case may be, but not the evidence by which they are to be proved, and shall, when necessary, be divided into paragraphs, numbered consecutively. Dates, sums and numbers shall be expressed in figures.

Pleading to state material facts and not evidence

3. The forms in appendix A when applicable, and where they are not applicable forms of the like character, as nearly as may be, shall be used for all pleadings.

Forms of pleading

4. In all cases in which the party pleading relies on any misrepresentation, fraud, breach of trust, wilful default, or undue influence, and in all other cases in which particulars may be necessary beyond such as are exemplified in the forms aforesaid, particulars (with dates and items if necessary) shall be stated in the pleading.

Particulars to be given where necessary.

5. A further and better statement of the nature of the claim or defence, or further and better particulars of any matter stated in any pleading, may in all cases be ordered, upon such terms, as to costs and otherwise, as may be just.

Further and better statement, or particulars

6. Any condition precedent, the performance or occurrence of which is intended to be contested, shall be distinctly specified in his pleading by the plaintiff or defendant, as the case may be; and, subject thereto, an averment of the performance or occurrence of all conditions precedent necessary for the

Condition precedent

case of the plaintiff or defendant shall be implied in his pleading.

7. No pleading shall, except by way of amendment, raise any new ground of claim or contain any allegation of fact inconsistent with the previous pleadings of the party pleading the same.

8. Where a contract is alleged in any pleading, a bare denial of the same by the opposite party shall be construed only as a denial in fact of the express contract alleged or of the matters of fact from which the same may be implied, and not as a denial of the legality or sufficiency in law of such contract.

9. Wherever the contents of any document are material, it shall be sufficient in any pleading to state the effect thereof as briefly as possible, without setting out the whole or any part thereof unless the precise words of the document or any part thereof are material.

10. Wherever it is material to allege malice, fraudulent intention, knowledge or other condition of the mind of any person, it shall be sufficient to allege the same as a fact without setting out the circumstances from which the same is to be inferred.

11. Wherever it is material to allege notice to any person of any fact, matter or thing, it shall be sufficient to allege such notice as a fact, unless the form or the precise terms of such notice, or the circumstances from which such notice is to be inferred, are material.

12. Whenever any contract or any relation between any persons is to be implied from a series of letters or conversations or otherwise from a number of circumstances, it shall be

sufficient to allege such contract or relation as a fact, and to refer generally to such letters, conversations or circum-

And if in such in the alternative

one is to be implied from such circumstances, he may state the same in the alternative.

13. Neither party need in any pleading allege any ^{Presumptions of law} matter of fact which the law presumes in his favour or as to which the burden of proof lies upon the other side unless the same has first been specifically denied, (e.g., consideration for a bill of exchange where the plaintiff sues only on the bill, and not for the consideration as a substantive ground of claim).

14. Every pleading shall be signed by the party and ^{Pleading to be signed.} his pleader (if any): Provided that where a party pleading is, by reason of absence or for other good cause, unable to sign the pleading, it may be signed by any person duly authorized by him to sign the same or to sue or defend on his behalf.

15. (1) Save as otherwise provided by any law for the ^{Verification of pleadings.} time being in force, every pleading shall be verified at the foot by the party or by one of the parties pleading or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case.

(2) The person verifying shall specify, by reference to the numbered paragraphs of the pleading, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.

(3) The verification shall be signed by the person making it and shall state the date on which and the place at which it was signed.

16. The Court may at any stage of the proceedings ^{Striking out pleadings.} order to be struck out or amended any matter in any pleading which may be

7. Every plaint shall state specifically the relief which the plaintiff claims either simply or in the alternative, and it shall not be necessary to ask for general or other relief which may always be given as the Court may think just to the same extent as if it had been asked for. And the same rule shall apply to any relief claimed by the defendant in his written statement.

8. Where the plaintiff seeks relief in respect of several distinct claims or causes of action founded upon separate and distinct grounds, they shall be stated as far as may be separately and distinctly.

9. (1) The plaintiff shall endorse on the plaint, or annex thereto, a list of the documents (if any) which he has produced along with it; and, if the plaint is admitted, shall present as many copies on plain paper of the plaint as there are defendants, unless the Court by reason of the length of the plaint or the number of the defendants, or for any other sufficient reason, permits him to present a like number of concise statements of the nature of the claim made, or of the relief claimed in the suit, in which case he shall present such statements.

(2) Where the plaintiff sues, or the defendant or any of the defendants is sued, in a representative capacity, such statements shall show in what capacity the plaintiff or defendant sues or is sued.

(3) The plaintiff may, by leave of the Court, amend such statements so as to make them correspond with the plaint.

(4) The chief ministerial officer of the Court shall sign such list and copies or statements if, on examination, he finds them to be correct.

10. (1) The plaint shall at any stage of the suit be returned to be presented to the Court in which the suit should have been instituted.

(2) On returning a plaint the Judge shall endorse thereon the date of its presentation and return, the name of the party presenting it, and a brief statement of the reasons for returning it.

11. The plaint shall be rejected in the following cases :—

- (a) where it does not disclose a cause of action :
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so :
- (c) where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so .
- (d) where the suit appears from the statement in the plaint to be barred by any law.

12. Where a plaint is rejected the Judge shall record an order to that effect with the reason for such order.

13. The rejection of the plaint on any of the grounds hereinbefore mentioned shall not of its own force preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action.

Documents relied on in plaint.

14. (1) Where a plaintiff sues upon a document in his possession or power, he shall produce it in Court when the plaint is presented and shall at the same time deliver the document or a copy thereof to be filed with the plaint.

(2) Where he relies on any other documents (whether in his possession or power or not) as evidence in support of his claim, he shall enter such documents in a list to be added or annexed to the plaint.

15. Where any such document is not in the possession or power of the plaintiff, he shall, if possible, state in whose possession or power it is.

16. Where the suit is founded upon a negotiable instrument, and it is proved that the instrument is lost, and an indemnity is given by the plaintiff, to the satisfaction of the Court, against the claims of any other person upon such instrument, the Court may pass such decree as it would have passed if the plaintiff had produced the instrument when the plaint was presented, and had at the time delivered a copy of the instrument to be filed with the plaint.

17. (1) Save in so far as is otherwise provided in the Bankers' Books Evidence Act, (XVIII. of 1891), where the document on which the plaintiff sues is an entry in a shop-book or other account, in his possession or power, the plaintiff shall produce the book or account at the time of filing the plaint, together with a copy of the entry on which he relies.

2) The Court, or such officer as it appoints in this behalf, shall forthwith mark the document for the purpose of identification ; and, after examining and comparing copy with the original, shall, if it is found correct, certify it to be so and return the book to the plaintiff and cause the copy to be filed.

18. (1) A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint, and which is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

(2) Nothing in this rule applies to documents produced for cross-examination of the defendant's witnesses in answer to any case set up by the defendant or handed to a witness merely to refresh his memory.

ORDER VIII.

Written Statement and Set-off.

1. The defendant may, and, if so required by the Court, shall at or before the first hearing or within such time as the Court may direct, present a written statement of his defence.

2. The defendant must raise by his pleading all matters which show the suit not to be maintainable, or that the transaction is either void or voidable in point of law, and all such grounds of defence as, if not raised, would be likely to take the opposite party by surprise, or would raise issues of fact arising out of the plaint, as, for instance, fraud, misrepresentation, release, payment, performance, or facts negating illegality.

3. It shall not be sufficient for a defendant in his written statement to deny generally the grounds alleged by the plaintiff, but the defendant must deal specifically with each allegation of fact of which he does not admit the truth, except damage

4. Where a defendant denies an allegation of fact in the plaint, he must not do so evasively, but answer the point of substance. Thus, if it is alleged that he received a certain sum of money, it shall not be sufficient to deny that he received that particular amount, but he must deny that he received that sum or any part thereof, or else set out how much he received. And if an allegation is made with divers circumstances, it shall not be sufficient to deny it along with those circumstances.

5. Every allegation of fact in the plaint, if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of the defendant, shall be taken to be admitted except as against a person under disability :

Provided that the Court may in its discretion require any fact so admitted to be proved otherwise than by such admission

6. (1) Where in a suit for the recovery of money the defendant claims to set-off against the plaintiff's demand any ascertained sum of money legally recoverable by him from the plaintiff, not exceeding the pecuniary limits of the jurisdiction of the Court, and both parties fill the same character as they fill in the plaintiff's suit, the defendant must at the first hearing of the suit but not afterwards state the set-off.

(2) The written statement shall have the same effect as a plaint in a cross-suit so as to enable the Court to pronounce a final judgment

in respect both of the original claim and of the set-off : but this shall not affect the lien, upon the amount decreed, of any pleader in respect of the costs payable to him under the decree.

(3) The rules relating to a written statement by a defendant apply to a written statement in answer to a claim of set-off.

Illustrations.

(a) A bequeaths Rs. 2,000 to B and appoints C his executor and residuary legatee. B dies and D takes out administration to B's effects. C pays Rs. 1,000 as surety for D; then, D sues C for the legacy. C cannot set off the debt of Rs. 1,000 against the legacy, for neither C nor D fills the same character with respect to the legacy as they fill with respect to the payment of the Rs. 1,000.

(b) A dies intestate and in debt to B. C takes out administration to A's effects and B buys part of the effects from C. In a suit for the purchase-money by C against B, the latter cannot set off the debt against the price, for C fills two different characters, one as the vendor to B, in which he sues B, and the other as representative to A.

(c) A sues B on a bill of exchange. B alleges that A has wrongfully neglected to insure B's goods and is liable to him in compensation which he claims to set off. The amount not being ascertained cannot be set off.

(d) A sues B on a bill of exchange for Rs. 500. B holds a judgment against A for Rs. 1,000. The two claims being both definite pecuniary demands may be set off.

(e) A sues B for compensation on account of trespass. B holds a promissory note for Rs. 1,000 from A and claims to set off that amount against any sum that A may recover in the suit. B may do so for, as soon as A recovers, both sums are definite pecuniary demands.

(f) A and B sue C for Rs. 1,000. C cannot set off debt due to him by A alone.

(g) A sues B and C for Rs. 1,000. B cannot set off debt due to him alone by A.

(h) A owes the partnership firm of B and C Rs. 1,000. B dies, leaving C surviving. A sues C for a debt of Rs. 1,500 due in his separate character. C may set off the debt of Rs. 1,000.

7. Where the defendant relies upon several distinct grounds of defence or set-off founded upon separate and distinct facts, they shall be stated, as far as may be, separately and distinctly.

8. Any ground of defence which has arisen after the institution of the suit or the presentation of a written statement claiming a set-off may be raised by the defendant or plaintiff, as the case may be, in his written statement.

9. No pleading subsequent to the written statement of a defendant other than by way of defence to a set-off shall be presented except by the leave of the Court and upon such terms as the Court thinks fit, but the Court may at any time require a written statement or additional written statement from any of the parties and fix a time for presenting the same.

10. Where any party from whom a written statement is so required fails to present the same within the time fixed by the Court, the Court may pronounce judgment against him, or make such order in relation to the suit as it thinks fit.

ORDER IX:

Appearance of Parties and Consequence of Non-appearance.

1. On the day fixed in the summons for the defendant to appear and answer, the parties shall be in attendance at the Court-house in person or by their respective pleaders, and the suit shall then be heard unless the hearing is adjourned to a future day fixed by the Court.

Parties to appear on day fixed in summons for defendant to appear and answer.

2. Where on the day so fixed it is found that the summons has not been served upon the defendant in consequence of the failure of the plaintiff to pay the court-fee or postal charges (if any) chargeable for such service, the Court may make an order that the suit be dismissed;

Dismissal of suit where summons not served in consequence of plaintiff's failure to pay cost.

Provided that no such order shall be made although the summons has not been served upon the defendant, if on the day fixed for him to appear and answer he attends in person or by agent when he is allowed to appear by agent.

3. Where neither party appears when the suit is called on for hearing, the Court may make an order that the suit be dismissed.

Where neither party appears, suit to be dismissed.

4. Where a suit is dismissed under rule 2 or rule 3, the plaintiff may (subject to the law of limitation) bring a fresh suit, or he may apply for an order to set the dismissal aside, and if he satisfies the Court that there was sufficient cause for his not paying the Court-fee and postal charges (if any) required within the time fixed before the issue of the summons, or for his non-appearance, the case may be, the Court shall make an order setting aside the dismissal and shall appoint a day for proceeding with the suit.

Plaintiff may bring fresh suit or Court may restore suit to file.

5. (1) Where, after a summons has been issued to the defendant, or to one of several defendants, and returned unserved, the plaintiff fails for a period of one month from the date of the return made to the Court by the officer ordinarily certifying to the returns made by the serving officers, to apply for issue of a fresh summons and to satisfy the Court that he has used his best endeavours to discover the residence of the defendant who has not been served, or that the defendant is avoiding service of process, the Court may make an order that the suit be dismissed as against the defendant.

(2) In such case the plaintiff may (subject to the provisions of limitation) bring a fresh suit.

6. (1) Where the plaintiff appears and the defendant does not appear when the suit is called on for hearing, then—

Procedure when only plaintiff appears

(a) if it is proved that the summons was duly served

When summons duly served the Court may proceed *ex parte*;

(b) if it is not proved that the summons was

When summons not duly served, the Court shall direct a second summons

issued and served on the defendant;

(c) if it is proved that the summons was served

When summons served, but not in due time. the defendant, but no sufficient time to enable

him to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to some future day to be fixed by the Court, and shall direct notice of such day to be given to the defendant.

(2) Where it is owing to the plaintiff's default that the summons was not duly served or was not served in sufficient time, the Court shall order the plaintiff to pay the costs occasioned by the postponement.

7. Where the Court has adjourned the hearing of the suit *ex parte*, and the defendant, at or before such hearing, appears and assigns good cause for his previous non-appearance, he may, upon such terms as the Court directs as to costs or otherwise, be heard in answer to the suit as if he had appeared on the day fixed for his appearance.

8. Where the defendant appears and the plaintiff does not appear when the suit is called on for hearing, the Court shall make an order that the suit be dismissed, unless the defendant admits the claim, or part thereof, in which case the Court shall pass a decree against the defendant upon such admission, and, where part only of the claim has been admitted, shall dismiss the suit so far as it relates to the remainder.

9. (1) Where a suit is wholly or partly dismissed under rule 8, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action. But he may apply for an order to set the dismissal aside, and if he satisfies the Court that there was sufficient cause for his non appearance when the suit was called on for hearing, the Court shall make an order setting aside the dismissal upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit.

(2) No order shall be made under this rule unless notice of the application has been served on the opposite party.

10. Where there are more plaintiffs than one, and one or more of them appear, and the others do not appear, the Court may, at the instance of the plaintiff or plaintiffs appearing, permit the suit to proceed in the same way

as if all the plaintiffs had appeared, or make such as it thinks fit.

11. Where there are more defendants than one or more of them appear and others do not appear, the suit proceed, and the Court shall, at the of pronouncing judgment, make such order as it th fit with respect to the defendants who do not appear.

12. Where a plaintiff or defendant, who has ordered to appear in person, does appear in person, or show sufficient cause to the satisfaction of the Court for failing so to appear, he shall subject to all the provisions of the foregoing applicable to plaintiffs and defendants, respectively, do not appear.

Setting aside Decrees ex parte.

13. In any case in which a decree is passed *ex parte* against a defendant, he may apply the Court by which the decree was passed for an order to set it aside; and if satisfies the Court that the summons was not duly served or that he was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall make an order setting aside the decree against him upon such terms as to costs, payment of day for proceeding with the suit:

Provided that where the decree is of such a nature that it cannot be set aside as against such defendant on it may be set aside as against all or any of the other defendants also.

14. No decree shall be set aside on any such application as aforesaid unless notice thereof has been served on the opposite party.

No decree to be set aside without notice to opposite party.

(Order X.—*Examination of Parties by the Court.*

Order XI.—Discovery and Inspection.)

ORDER X.

Examination of Parties by the Court.

1. At the first hearing of the suit the Court shall ascertain from each party or his pleader whether he admits or denies such allegations of fact as are made in the plaint or written statement (if any) of the opposite party, and as are not expressly or by necessary implication admitted or denied by the party against whom they are made. The Court shall record such admissions and denials.

Ascertainment whether allegations in plaint are admitted or denied.

2. At the first hearing of the suit, or at any subsequent hearing, any party appearing in person or present in Court, or any person able to answer any material questions relating to the suit by whom such party or his pleader is accompanied, may be examined orally by the Court: and the Court may, if it thinks fit, put in the course of such examination questions suggested by either party.

Oral examination of party, or companion of party.

3. The substance of the examination shall be reduced to writing by the Judge, and shall form part of the record.

Substance of examination to be written

4. (1) Where the pleader of any party who appears by a pleader or any such person accompanying a pleader as is referred to in rule 2, refuses or is unable to answer any material question relating to the suit which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Court may postpone the hearing of the suit to a future day and direct that such party shall appear in person on such day.

In consequence of refusal or inability of pleader to answer

(2) If such party fails without lawful excuse to appear in person on the day so appointed, the Court may pro-

nounce judgment against him, or make such order in relation to the suit as it thinks fit.

ORDER XI.

Discovery and Inspection.

1. In any suit the plaintiff or defendant by leave of the Court may deliver interrogatories Discovery by interrogatories. in writing for the examination of the opposite parties or any one or more of such parties, and such interrogatories when delivered shall have a note at the foot thereof stating which of such interrogatories each of such persons is required to answer : Provided that no party shall deliver more than one set of interrogatories to the same party without an order for that purpose : Provided also that interrogatories which do not relate to any matters in question in the suit shall be deemed irrelevant, notwithstanding that they might be admissible on the oral cross-examination of a witness.

2 On an application for leave to deliver interrogatories, the particular interrogatories proposed to be delivered shall be submitted to the Court. Particular interrogatories to be submitted. In deciding upon such application, the Court shall take into account any offer, which may be made by the party sought to be interrogated, to deliver particulars, or to make admissions, or to produce documents relating to the matters in question, or any of them, and leave shall be given as to such only of the interrogatories submitted as the Court shall consider necessary either for disposing fairly of the suit or for saving costs.

3. In adjusting the costs of the suit inquiry shall at the instance of any party be made into Costs of interrogatories. the propriety of exhibiting such interrogatories, and if it is the opinion of the taxing officer or of the Court, either with or without an application for inquiry that such interrogatories have been exhibited unreasonably, vexatiously, or at improper length, the costs

occasioned by the said interrogatories and the answers thereto shall be paid in any event by the party in fault.

4. Interrogatories shall be in Form No. 2 in Appendix C, with such variations as circumstances may require.

Form of interrogatories.

5. Where any party to a suit is a corporation or a body of persons, whether incorporated or not, empowered by law to sue or be sued, whether in its own name or in the name of any officer or other person, any opposite party may apply for an order allowing him to deliver interrogatories to any member or officer of such corporation or body, and an order may be made accordingly.

Corporations.

6. Any objection to answering any interrogatory on the ground that it is scandalous or irrelevant or not exhibited *bona fide* for the purpose of the suit or that the matters inquired into are not sufficiently material at that stage, or on any other ground, may be taken in the affidavit in answer.

Objections to interrogatories by answer.

7. Any interrogatories may be set aside on the ground that they have been exhibited unreasonably or vexatiously, or struck out on the ground that they are prolix, oppressive, unnecessary or scandalous; and any application for this purpose may be made within seven days after service of the interrogatories.

Setting aside and striking out interrogatories.

8. Interrogatories shall be answered by affidavit to be filed within ten days, or within such other time as the Court may allow.

Affidavit in answer.

9. An affidavit in answer to interrogatories shall be in Form No. 3 in Appendix C, with such variations as circumstances may require.

Form of affidavit in answer.

10. No exceptions shall be taken to any affidavit in answer, but the sufficiency or otherwise of any such affidavit objected to as insufficient shall be determined by the Court.

No exception to be taken.

11. Where any person interrogated omits to answer, Order to answer or answer further or answers insufficiently, the party interrogating may apply to the Court for an order requiring him to answer, or to answer further, as the case may be. And an order may be made requiring him to answer or answer further, either by affidavit or by *viva voce* examination, as the Court may direct.

12. Any party may, without filing any affidavit, Application for discovery of documents. apply to the Court for an order directing any other party to any suit to make discovery on oath of the documents which are or have been in his possession or power, relating to any matter in question therein. On the hearing of such application the Court may either refuse or adjourn the same, if satisfied that such discovery is not necessary, or not necessary at that stage of the suit, or make such order, either generally or limited to certain classes of documents, as may, in its discretion, be thought fit: Provided that discovery shall not be ordered when and so far as the Court shall be of opinion that it is not necessary either for disposing fairly of the suit or for saving costs.

13. The affidavit to be made by a party against whom Affidavit of documents such order as is mentioned in the last preceding rule has been made, shall specify which (if any) of the documents therein mentioned he objects to produce, and it shall be in Form No. 5. in Appendix C, with such variations as circumstances may require.

14. It shall be lawful for the Court, at any time Production of documents during the pendency of any suit, to order the production by any party thereto, upon oath, of such of the documents in his possession or power, relating to any matter in question in such suit, as the Court shall think right; and the Court may deal with such documents, when produced, in such manner as shall appear just.

15. Every party to a suit shall be entitled at any time to give notice to any other party, in whose pleadings or affidavits reference is made to any document, to produce such document for the inspection of the party giving such notice, or of his pleader, and to permit him or them to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence on his behalf in such suit unless he shall satisfy the Court that such document relates only to his own title, he being a defendant to the suit, or that he had some other cause or excuse which the Court shall deem sufficient for not complying with such notice, in which case the Court may allow the same to be put in evidence on such terms as to costs and otherwise as the Court shall think fit.

16. Notice to any party to produce any documents referred to in his pleading or affidavits shall be in Form No. 7 in Appendix C, with such variations as circumstances may require.

17. The party to whom such notice is given shall, within ten days from the receipt of such notice, deliver to the party giving the same a notice stating a time within three days from the delivery thereof at which the documents, or such of them as he does not object to produce, may be inspected at the office of his pleader, or in the case of bankers' books or other books of account or books in constant use for the purposes of any trade or business, at their usual place of custody, and stating which (if any) of the documents he objects to produce, and on what ground. Such notice shall be in Form No. 8 in Appendix C, with such variations as circumstances may require.

18. (1) Where the party served with notice under rule 15 omits to give such notice of a time for inspection or objects to give

Every party requiring any other party to state by affidavit one or more specific documents, to be applied for, in his possession or power; and, if not in his possession, when he parted with the same and become thereof. Such application shall be made by affidavit stating that in the belief of the deponent against whom the application is made has, or has had, in his possession or power the documents applied for, and that the application, and that the question in the suit, or to the merits of the case, depends on the production of them.

Where the party from whom discovery of any kind or inspection is sought objects to the same, or any part thereof, the Court shall be satisfied that the right to the discovery or inspection depends on the determination of any issue or question in dispute in the suit, or that for any other reason it is desirable that any issue or question in dispute in the suit should be determined before deciding upon the right to the discovery or inspection, order that such issue or question be determined first, and reserve the question as to the discovery or inspection.

11. Where any party fails to comply with any order of the Court for discovery or inspection, the Court may, on the application of the plaintiff, order that the party so failing be struck out, and to be placed in the same position as if he had not defended, and the party interrogating or seeking discovery or inspection may apply to the Court for an order to that effect, and an order may be made accordingly.

22. Any party may, at the trial of a suit, use in evidence any one or more of the answers or any part of an answer of the other party.

party to interrogatories without putting in the others or the whole of such answer : Provided always that in such case the Court may look at the whole of the answers, and if it shall be of opinion that any others of them are so connected with those put in that the last-mentioned answers ought not to be used without them, it may direct them to be put in.

23. This Order shall apply to minor plaintiffs and Order to apply to defendants, and to the next friends and minors guardians for the suit of persons under disability.

(Order XII.—Admissions. Order XIII.—Production, Impounding and Return of Documents.)

ORDER XII.

Admissions.

1. Any party to a suit may give notice, by his pleading, or otherwise in writing, that he Notice of admissions admits the truth of the whole or any part of the case of any other party.

2. Either party may call upon the other party to Notice to admit documents admit any document, saving all just exceptions; and in case of refusal or neglect to admit, after such notice, the costs of proving any such document shall be paid by the party so neglecting or refusing, whatever the result of the suit may be, unless the Court otherwise directs; and no costs of proving any document shall be allowed unless such notice is given, except where the omission to give the notice is, in the opinion of the Court, a saving of expense.

3. A notice to admit documents shall be in Form No. Form of notice 9 in Appendix C, with such variations as circumstances may require.

4. Any party may, by notice in writing, at any time Notice to admit facts not later than nine days before the day fixed for the hearing, call on any other

party to admit, for the purposes of the suit only, any specific fact or facts mentioned in such notice. And in case of refusal or neglect to admit the same within six days after service of such notice, or within such further time as may be allowed by the Court, the costs of proving such fact or facts shall be paid by the party so neglecting or refusing, whatever the result of the suit may be, unless the Court otherwise directs: Provided that any admission made in pursuance of such notice is to be deemed to be made only for the purposes of the particular suit, and not as an admission to be used against the party on any other occasion or in favour of any person other than the party giving the notice: Provided also that the Court may at any time allow any party to amend or withdraw any admission so made on such terms as may be just.

5. A notice to admit facts shall be in Form No. 10 in Appendix C, and admissions of facts shall be in Form No. 11 in Appendix C, with such variations as circumstances may require.

6. Any party may at any stage of a suit, where admissions of fact have been made, either on the pleadings, or otherwise, apply to the Court for such judgment or order as upon such admissions he may be entitled to, without waiting for the determination of any other question between the parties: and the Court may upon such application make such order, or give such judgment, as the Court may think just.

7. An affidavit of the pleader or his clerk, of the due signature of any admissions made in pursuance of any notice to admit documents or facts, shall be sufficient evidence of such admissions, if evidence thereof is required.

8. Notice to produce documents shall be in Form No. 12 in Appendix C, with such variations as circumstances may require.

An affidavit of the pleader, or his clerk, of the service of any notice to produce, and of the time when it was served, with a copy of the notice to produce, shall in all cases be sufficient evidence of the service of the notice, and of the time when it was served.

9. If a notice to admit or produce specifies documents which are not necessary, the costs occasioned thereby shall be borne by the party giving such notice.

ORDER XIII.

Production, Impounding and Return of Documents.

1. (1) The parties or their pleaders shall produce, at the first hearing of the suit, all the documentary evidence of every description in their possession or power, on which they intend to rely, and which has not already been filed in Court, and all documents which the Court has ordered to be produced.

(2) The Court shall receive the documents so produced. Provided that they are accompanied by an accurate list thereof prepared in such form as the High Court directs.

2. No documentary evidence in the possession or power of any party which should have been but has not been produced in accordance with the requirements of rule 1 shall be received at any subsequent stage of the proceedings unless good cause is shown to the satisfaction of the Court for the non-production thereof; and the Court receiving any such evidence shall record the reasons for so doing.

3. The Court may at any stage of the suit reject any document which it considers irrelevant or otherwise inadmissible, recording the grounds of such rejection.

(1) Subject to the provisions of the next following sub-rule, there shall be endorsed on every document which has been admitted in evidence in the suit the following particulars, namely :—

the number and title of the suit,
the name of the person producing the document,
the date on which it was produced, and
a statement of its having been so admitted ;
the endorsement shall be signed or initialled by the

) Where a document so admitted is an entry in a account or record, and a copy thereof has been submitted for the original under the next following rule, particulars aforesaid shall be endorsed on the copy and the endorsement thereon shall be signed or initialled by a Judge.

(1) Save in so far as is otherwise provided by the Bankers' Books Evidence Act, 1891, (VIII of 1891), where a document admitted in evidence in the suit is an entry in a letter-book or shop-book or other account in current use, the party on whose behalf the book or document is produced may furnish a copy of the entry.

) Where such a document is an entry in a public document produced from a public office or by a public officer, or an entry in a book or account belonging to a person other than a party on whose behalf the book or account is produced, the Court may require a copy of the entry to be furnished—

- (a) where the record, book or account is produced on behalf of a party, then by that party, or
- (b) where the record, book or account is produced in obedience to an order of the Court acting of its own motion, then by either or any party.

(3) Where a copy of an entry is furnished under foregoing provisions of this rule, the Court shall, causing the copy to be examined, compared and certified in manner mentioned in rule 17 of Order VII, mark entry and cause the book, account or record in which it occurs to be returned to the person producing it.

6. Where a

Endorsements on documents rejected as inadmissible in evidence.

endorsed thereon the particulars mentioned in clauses (a), (b) and (c) of 4, sub-rule (1), together with a statement of its having been rejected, and the endorsement shall be signed and initialled by the Judge.

7. (1) Every document which has been admitted in evidence, or a copy thereof where a copy has been substituted for the original under rule 5, shall form part of the record of the suit.

1. Recording of admitted and return of rejected documents

(2) Documents not admitted in evidence shall form part of the record and shall be returned to the persons respectively producing them.

8. Notwithstanding anything contained in rule 7 of this Order or in rule 1 of Order VII, the Court may, if it is satisfied by sufficient cause, direct any document produced before it in any suit to be impounded and kept in the custody of an officer of the Court, for such period and subject to such conditions as the Court thinks fit.

Court may order any document to be impounded

9. (1) Any person, whether a party to the suit or not, desirous of receiving back a document produced by him in the suit and placed on the record shall, if the documents is impounded under rule 8, be entitled to receive back the same,—

Return of admitted documents.

- a) where the suit is one in which an appeal is not allowed, when the suit has been disposed of, and
- b) where the suit is one in which an appeal is allowed, when the Court is satisfied that the time for preferring an appeal has elapsed and that no appeal has been preferred or, if an appeal has been preferred, when the appeal has been disposed of :

provided that a document may be returned at any earlier time than that specified in the rule if the person producing the document is a judicial officer, a clerk, or an officer of the Court, and under-

to produce the original if required to do so :
provided also that no document shall be returned, by force of the decree, has become wholly void or

On the return of a document admitted in evidence receipt shall be given by the person receiving it.

(1) The Court may of its own motion, and may in its discretion upon the application of any of the parties to a suit, send for, either from its own records or from any other Court, the record of any other proceeding, and inspect the same.

Every application made under this rule shall be supported by an affidavit that the applicant

without unreasonable delay or expense obtain a authenticated copy of the record or of such portion as the applicant requires, or that the production of the original is necessary for the purposes of justice.

Nothing contained in this rule shall be deemed to oblige the Court to use in evidence any document

which under the law of evidence would be inadmissible in the suit.

11. The provisions herein contained as to documents shall, so far as may be, apply to other material objects producible as evidence.

Provisions as to documents applied to material objects.

ORDER XIV.

Settlement of Issues and Determination of Suit or Issues of Law or on Issues agreed upon.

1. (1) Issues arise when a material proposition of fact or law is affirmed by one party and denied by the other.
Forming of issues
- (2) Material propositions are those propositions of fact or law which a plaintiff must allege in order to substantiate his claim or a defendant must allege in order to substantiate his defence.
- (3) Each material proposition affirmed by one party and denied by the other shall form the subject of a distinct issue.
- (4) Issues are of two kinds : (a) issues of fact and (b) issues of law.
- (5) At the first hearing of the suit the Court shall, after reading the plaint and the written statements, and after such examination of the parties as may be necessary, ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to depend.
- (6) Nothing in this rule requires the Court to frame and record issues where the defendant at the first hearing of the suit makes no defence.
2. Where issues both of law and of fact arise in the same suit, and the Court is of opinion that the case or any part thereof can be disposed of on the issues of law only,

Issues of law and of fact.

It try those issues first, and for that purpose may, if it thinks fit, postpone the settlement of the issues of fact till after the issues of law have been determined.

3. The Court may frame the issues from all or any of the following materials —

Materials from which
issues may be framed

- (a) allegations made on oath by the parties, or by any persons present on their behalf, or made by the pleaders of such parties;
- (b) allegations made in the pleadings or in answers to interrogatories delivered in the suit;
- (c) the contents of documents produced by either party.

4. Where the Court is of opinion that the issues cannot be correctly framed without the examination of some person not before the Court or without the inspection of some document not produced in the suit, the Court may examine the person or documents before framing issues, may adjourn the framing of the issues to a future day, and may (subject to any law for the time being in force) compel the attendance of any person or the production of any document by the person in whose possession or power is by summons or other process.

Court may examine
person or documents
before framing issues

5. (1) The Court may at any time before passing a decree amend the issues or frame additional issues on such terms as it thinks fit, and all such amendments or additional issues as may be necessary for determining the matters in controversy between the parties shall be so made or framed.

Power to amend, and
strike out, issues

(2) The Court may also, at any time before passing a decree, strike out any issues that appear to it to be wrongly framed or introduced.

6. Where the parties to a suit are agreed as to the question of fact or of law to be decided between them, they may state the same in the form of an issue, and enter into an agreement in writing that, upon the

Questions of fact or
law may by agreement
be stated in form of
issues

finding of the Court in the affirmative or the negative of such issue,—

- (a) a sum of money specified in the agreement or to be ascertained by the Court, or in such manner as the Court may direct, shall be paid by one of the parties to the other of them, or that one of them be declared entitled to some right or subject to some liability specified in the agreement;
- (b) some property specified in the agreement and in dispute in the suit shall be delivered by one of the parties to the other of them, or as that other may direct; or
- (c) one or more of the parties shall do or abstain from doing some particular act specified in the agreement and relating to the matter in dispute.

Court. If satisfied that agreement was executed in good faith, may pronounce judgment.

7. Where the Court is satisfied after making such inquiry as it deems proper,—

- (a) that the agreement was duly executed by the parties,
- (b) that they have a substantial interest in the decision of such question as aforesaid, and
- (c) that the same is fit to be tried and decided,

it shall proceed to record and try the issue and state its finding or decision thereon in the same manner as if the issue had been framed by the Court;

and shall, upon the finding or decision on such issue, pronounce judgment according to the terms of the agreement; and, upon the judgment so pronounced, a decree shall follow.

ORDER XV.

'Disposal of the Suit at the first hearing.

1. Where at the first hearing of a suit it appears that the parties are not at issue on any question of law or of fact, the Court at once pronounce judgment.
2. Where there are more defendants than one, and any one of the defendants is not at issue with the plaintiff on any question of law or of fact, the Court may at once pronounce judgment against such defendant and the suit shall proceed against the other defendants.
3. (1) Where the parties are at issue on some question of law or of fact, and issues have been framed by the Court as hereinbefore provided, if the Court is satisfied that no further argument or evidence than the parties can at once adduce is required on such of the issues as may be sufficient for the decision of the suit, and that no injustice will result from proceeding with the suit forthwith, the Court may proceed to determine such issues, and, if the finding thereon is sufficient for the decision, may pronounce judgment accordingly, whether the summons has been issued for settlement of issues only or for the final disposal of the suit :
 Provided that, where the summons has been issued for the settlement of issues only, the parties or their advocates are present and none of them objects.
- (2) Where the finding is not sufficient for the decision, the Court shall postpone the further hearing of the suit and shall fix a day for the production of such further evidence, or for such further argument as the case requires.
4. Where the summons has been issued for the final disposal of the suit and either party fails to produce evidence without sufficient cause to produce the

evidence on which he relies, the Court may at once pronounce judgment, or may, if it thinks fit, after framing and recording issues, adjourn the suit for the production of such evidence as may be necessary for its decision upon such issues.

ORDER XVI.

Summoning and attendance of witnesses.

1. At any time after the suit is instituted, the party may obtain, on application to the Court or to such officer as it appoints in this behalf, summonses to persons whose attendance is required either to give evidence or to produce documents.

Summonses to attend to give evidence or produce documents
2. (1) The party applying for a summons shall, before the summons is granted and within a period to be fixed, pay into Court such sum of money as appears to the Court to be sufficient to defray the travelling and other expenses of the person summoned in passing to and from the Court in which he is required to attend, and for one day's attendance.

Expenses of witnesses to be paid into Court on applying for summons
- (2) In determining the amount payable under this rule, the Court may, in the case of any person summoned to give evidence as an expert, allow reasonable remuneration for the time occupied both in giving evidence and in performing any work of an expert character necessary for the case.

Experts.
- (3) Where the Court is subordinate to a High Court regard shall be had, in fixing the scale of such expenses, to any rules made in that behalf.

Scale of expenses.
3. The sum so paid into Court shall be tendered to the person summoned, at the time of serving the summons, if it can be served personally.

Tender of expenses to witness

4. (1) Where it appears to the Court or to such officer as it appoints in this behalf that the sum paid into Court is not sufficient to cover such expenses or reasonable remuneration, the Court may direct such further sum to be paid to the person summoned as appears to be necessary on that account, and, in case of default in payment, may order such sum to be levied by attachment and sale of the moveable property of the party obtaining the summons ; or the Court may discharge the person summoned without requiring him to give evidence ; or may both order such levy and discharge such person as aforesaid.

(2) Where it is necessary to detain the person summoned for a longer period than one day, the Court may, from time to time, order the party at whose instance he was summoned to pay into Court such sum as is sufficient to defray the expenses of his detention for such further period, and, in default of such deposit being made, may order such sum to be levied by attachment and sale of the moveable property of such party ; or the Court may discharge the person summoned without requiring him to give evidence ; or may both order such levy and discharge such person as aforesaid.

5. Time, place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes ; and any particular document, which the person summoned is called on to produce, shall be described in the summons with reasonable accuracy.

6. Any person may be summoned to produce a document, without being summoned to give evidence ; and any person sum-

moned merely to produce a document shall be deemed to have complied with the summons if he causes such document to be produced instead of attending personally to produce the same.

7. Any person present in Court may be required by the Court to give evidence or to produce any document then and there in his possession or power.

8. Every summons under this Order shall be served as nearly as may be in the same manner as a summons to a defendant, and the rules in Order V as to proof of service shall apply in the case of all summonses served under this rule.

9. Service shall in all cases be made a sufficient time before the time specified in the summons for the person to appear and give evidence or to produce the document required.

10. (1) Where a person to whom a summons has been issued either to attend to give evidence or to produce a document fails to attend or to produce the document in compliance with such summons, the Court shall, if the certificate of the serving-officer has not been verified by affidavit, and may, if it has been so verified, examine the serving-officer on oath, or cause him to be so examined by another Court, touching the service or non-service of the summons.

(2) Where the Court sees reason to believe that such evidence or production is material, and that such person has, without lawful excuse, failed to attend or to produce such summons or has failed to give evidence or to produce the document at a time and place to be named therein;

and a copy of such proclamation shall be affixed on the outer door or other conspicuous part of the house in which he ordinarily resides.

(3) In lieu of or at the time of issuing such proclamation, or at any time afterwards, the Court may, in its discretion, issue a warrant, either with or without bail, for the arrest of such person, and may make an order for the attachment of his property to such amount as it thinks fit, not exceeding the amount of the cost of attachment and of any fine which may be imposed under rule 12 :

Provided that no Court of Small Causes shall make an order for the attachment of immoveable property.

11. Where, at any time after the attachment of his property, such person appears and satisfies the Court,—
If witness appears, attachment may be withdrawn

(a) that he did not, without lawful excuse, fail to comply with the summons or intentionally avoid service, and,

(b) where he has failed to attend at the time and place appointed for the hearing of the application for a proclamation issued under rule 10, and has failed to give notice

the Court shall direct that the property be released from attachment, and shall make such order as to the costs of the attachment as it thinks fit.

12. The Court may, where such person does not appear, or appears but fails so to satisfy the Court, impose upon him such fine not exceeding five hundred rupees as it thinks fit, having regard to his condition in life and all the circumstances of the case, and may order his property, or any part thereof, to be attached and sold or, if already attached under rule 10, to be sold for the purpose of satisfying all costs of such attachment, together with the amount of the said fine, if any :

Procedure if witness fails to appear

Provided that, if the person whose attendance is required pays into Court the costs and fine aforesaid, the Court shall order the property to be released from attachment.

13. The provisions with regard to the attachment and sale of property in the execution of a decree shall, so far as they are applicable, be deemed to apply to any attachment and sale under this Order as if the person whose property is so attached were a judgment-debtor.

14. Subject to the provisions of this Code as to attendance and appearance and to any law for the time being in force, where the Court at any time thinks it necessary to examine any person other than a party to the suit and not called as a witness by a party to the suit, the Court may, of its own motion, cause such person to be summoned as a witness to give evidence, or to produce any document in his possession, on a day to be appointed, and may examine him as a witness or require him to produce such document.

15. Subject as last aforesaid, whoever is summoned to appear and give evidence in a suit shall attend at the time and place named in the summons for that purpose, and whoever is summoned to produce a document shall either attend to produce it, or cause it to be produced, at such time and place.

16. (1) A person so summoned and attending shall, unless the Court otherwise directs, attend at each hearing until the suit has been disposed of.

(2) On the application of either party and the payment through the Court of all necessary expenses (if any), the Court may require any person so summoned and

tending to furnish security to attend at the next or any other hearing or until the suit is disposed of and, in default of his furnishing such security, may order him to be detained in the civil prison.

17. The provisions of rules 10 to 13 shall, so far as they are applicable, be deemed to apply to any person who having attended in compliance with a summons departs, without lawful excuse, in contravention of rule 16.

18. Where any person arrested under a warrant is brought before the Court in custody and cannot, owing to the absence of the parties or any of them, give the evidence or produce the document which he has been summoned to give or produce, the Court may require him to give reasonable bail or other security for his appearance at such time and place as it thinks fit, and, on such bail or security being given, may release him, and, in default of his giving such bail or security, may order him to be detained in the civil prison.

Application of rules 10 to 13
Procedure where witness apprehended cannot give evidence or produce documents
No witness to be ordered to attend in person unless residents within certain limits

19. No one shall be ordered to attend in person to give evidence unless he resides—

- (a) within the local limits of the Court's ordinary original jurisdiction, or
- (b) without such limits but at a place less than fifty or (where there is railway or steamer communication or other established public conveyance for five-sixths of the distance between the place where he resides and the place where the Court is situate) less than two hundred miles distance from the Court-house.

20. Where any party to a suit present in Court refuses, without lawful excuse, when required by the Court, to give evidence or to produce any document then and

Consequence of refusal of party to give evidence when called on by Court

4. The evidence of the witnesses in attendance shall be taken orally in open Court in the presence and under the personal direction and superintendence of the Judge.

5. In cases in which an appeal is allowed the evidence of each witness shall be taken down in writing, in the language of the Court, or in the presence and under the personal direction and superintendence of the Judge, not ordinarily in the form of question and answer, but in that of a narrative, and, when completed, shall be read over in the presence of the Judge and of the witness, and the Judge shall, if necessary, correct the same, and shall sign it.

6. Where the evidence is taken down in a language different from that in which it is given, and the witness does not understand the language in which it is taken down, the evidence as taken down in writing shall be interpreted to him in the language in which it is given.

7. Evidence taken down under section 138 shall be in the form prescribed by rule 5 and shall be read over and signed and, as occasion may require, interpreted and corrected as if it were evidence taken down under that rule.

8. Where the evidence is not taken down in writing by the Judge, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what each witness deposes, and such memorandum shall be written and signed by the Judge and shall form part of the record.

9. Where English is not the language of the Court but all the parties to the suit who appear in person, and the pleaders of such a suit appear by pleaders, do not object to have such evidence

given in English taken down in English, the Judge may take it down.

10. The Court may, of its own motion or on the application of any party or his pleader, take down any particular question and answer, or any objection to any question, if there appears to be any special reason for so doing.

11. Where any question put to a witness is objected to by a party or his pleader, and the Court allows the same to be put, the Judge shall take down the question, the answer, the objection and the name of the person making it together with the decision of the Court thereon.

12. The Court may record such remarks as it thinks material respecting the demeanour of any witness while under examination.

13. In cases in which an appeal is not allowed, it shall not be necessary to take down the evidence of the witnesses in writing at length; but the Judge, as the examination of each witness proceeds, shall make a memorandum of the evidence, and such memorandum by the Judge and shall

14. (1) Where the Judge is unable to make a memorandum as required by this Order, he shall cause the reason of such inability to be recorded, and shall cause the memorandum to be made in writing from his dictation in open Court.

(2) Every memorandum so made shall form part of the record.

15. (1) Where a Judge is prevented by death, transfer or other cause from concluding the trial of a suit, his successor may deal with any evidence or memorandum taken

down or made under the foregoing rules as if such evidence or memorandum had been taken down or made by him or under his direction under the said rules and may proceed with the suit from the stage at which his predecessor left it.

(2) The provisions of sub-rule (1) shall, so far as they are applicable, be deemed to apply to evidence taken in a suit transferred under section 24.

16. (1) Where a witness is about to leave the jurisdiction of the Court, or other sufficient cause is shown to the satisfaction of the Court why his evidence should be taken immediately, the Court may upon the application of any party or of the witness, at any time after the institution of the suit, take the evidence of such witness in manner hereinbefore provided.

(2) Where such evidence is not taken forthwith and in the presence of the parties, such notice as the Court thinks sufficient of the day fixed for the examination, shall be given to the parties.

(3) The evidence so taken shall be read over to the witness, and, if he admits it to be correct, shall be signed by him, and the Judge shall, if necessary, correct the same and shall sign it, and it may then be read at any hearing of the suit.

17. The Court may at any stage of a suit recall any witness who has been examined and may (subject to the law of evidence for the time being in force) put such questions to him as the Court thinks fit.

18. The Court may at any stage of a suit inspect any property or thing concerning which any question may arise.

ORDER XIX.

Affidavits.

1. Any Court may at any time for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit, of any witness may be read at the hearing, on such conditions as the Court thinks reasonable :

Power to order any
it to be proved by
affidavit.

Provided that where it appears to the Court that either party *bonâ fide* desires the production of a witness for cross-examination and that such witness, can be produced, order shall not be made authorizing the evidence of such witness to be given by affidavit.

2. (1) Upon any application evidence may be given by affidavit, but the Court may, at the instance of either party, order the attendance for cross-examination of the deponent.

Power to order attendance of deponent
for cross-examination

(2) Such attendance shall be in Court, unless the deponent is exempted from personal appearance in Court, or the Court otherwise directs.

3. (1) Affidavits shall be confined to such facts as the deponent is able of his own knowledge to prove, except on interlocutory applications, on which statements of his belief may be admitted : provided that the grounds thereof are stated.

Matters to which affidavits shall be confined

(2) The costs of every affidavit which shall unnecessarily set forth matters of hearsay or argumentative matter, or copies of, or extracts from documents, shall (unless the Court otherwise directs) be paid by the party filing the same.

ORDER XX.

Judgment and Decree.

1. The Court, after the case has been heard, shall pronounce judgment. in open Court, either at once or on some future day of which due notice shall be given to the parties or their pleaders.

Judgment when pronounced.

Power to pronounce judgment written by Judge's predecessor

2. A Judge may pronounce a judgment written but not pronounced by his predecessor.

3. The judgment shall be dated and signed by the Judge in open Court at the time of pronouncing it and, when once signed, shall not afterwards be altered or added to, save as provided by section 152 or on review.

Judgment to be signed

Judgments of Small Cause Courts

(1) Judgments of a Court of Small Causes need not contain more than the points for determination and the decision thereon.

Judgments of other Courts.

(2) Judgments of other Courts shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision.

5. In suits in which issues have been framed, the Court shall state its finding or decision, with the reasons therefor, upon each separate issue, unless the finding upon any one or more of the issues is sufficient for the decision of the suit.

Court to state its decision on each issue

Contents of decree.

6. (1) The decree shall agree with the judgment. it shall contain the number of the suit, the names and descriptions of the parties, and particulars of the claim, and shall specify clearly the relief granted or other determination of the suit.

(2) The decree shall also state the amount of costs incurred in the suit, and by whom or out of what property and in what proportions such costs are to be paid.

(3) The Court may direct that the costs payable to one party by the other shall be set off against any sum which is admitted or found to be due from the former to the latter.

7. The decree shall bear date the day on which the judgment was pronounced, and, when the Judge has satisfied himself that the decree has been drawn up in accordance with the judgment, he shall sign the decree.

8. Where a Judge has vacated office after pronouncing judgment but without signing the decree, a decree drawn up in accordance with such judgment may be signed by his successor or, if the Court has ceased to exist, by the Judge of any Court to which such Court was subordinate.

9. Where the subject-matter of the suit is immovable property, the decree shall contain a description of such property sufficient to identify the same, and where such property can be identified by boundaries or by numbers in a record of settlement or survey, the decree shall specify such boundaries or numbers.

10. Where the suit is for moveable property, and the decree is for the delivery of such property, the decree shall also state the amount of money to be paid as an alternative if delivery cannot be had.

11. (1) Where and in so far as a decree is for the payment of money, the Court may for any sufficient reason at the time of passing the decree order that payment of the amount decreed shall be postponed or shall be made by instalments, with or without interest, notwithstanding

anything contained in the contract under which the money is payable.

(2) After the passing of any such decree the Court may, on the application of the judgment-debtor and with the consent of the decree-holder, order that payment of the amount decreed shall be postponed or shall be made by instalments on such terms as to the payment of interest, the attachment of the property of the judgment-debtor, or the taking of security from him, or otherwise, as it thinks fit.

12. (1) Where a suit is for the recovery of possession of immoveable property and for rent or mesne profits, the Court may pass a decree—

- (a) for the possession of the property ;
- (b) for the rent or mesne profits which have accrued on the property during a period prior to the institution of the suit or directing an inquiry as to such rent or mesne profits ;
- (c) directing an inquiry as to rent or mesne profits from the institution of the suit until—
 - (i) the delivery of possession to the decree-holder,
 - (ii) the relinquishment of possession by the judgment-debtor with notice to the decree-holder through the Court, or
 - (iii) the expiration of three years from the date of the decree,
 whichever event first occurs.

(2) Where an inquiry is directed under clause (b) or clause (c) a final decree in respect of the rent or mesne profits shall be passed in accordance with the result of such inquiry.

13. (1) Where a suit is for an account of any property and for its due administration under the decree of the Court, the Court all, before passing the final decree, pass a preliminary decree ordering such accounts and inquiries to be taken and made, and giving such other directions as it thinks

(2) In the administration by the Court of the property of any deceased person, if such property proves to be sufficient for the payment in full of his debts and liabilities, the same rules shall be observed as to the respective rights of secured and unsecured creditors and to debts and liabilities proveable, and as to the valuation of annuities and future and contingent liabilities respectively, as may be in force for the time being within the local limits of the Court in which the administration suit is pending with respect to the estates of persons adjudged or declared insolvent; and all persons who in any such case would be entitled to be paid out of such property may come in under the preliminary decree, and make such claims against the same as they may respectively be entitled to by virtue of this Code.

14. (1) Where the Court decrees a claim to pre-emption in respect of a particular sale of property and the purchase-money is not been paid into Court, the decree shall—

(a) specify a day on or before which the purchase-money shall be so paid, and

(b) direct that on payment into Court of such purchase-money, together with the costs (if any) decreed against the plaintiff, on or before the day referred to in clause (a), the defendant shall deliver possession of the property to the plaintiff, whose title thereto shall be deemed to have accrued from the date of such payment, but that, if the purchase-money and the costs

(if any) are not so paid, the suit shall be dismissed with costs.

(2) Where the Court has adjudicated upon rival claims to pre-emption, the decree shall direct,—

(a) if and in so far as the claims decreed are equal in degree, that the claim of each pre-emptor complying with the provisions of sub-rule (1) shall take effect in respect of a proportionate share of the property including any proportionate share in respect of which the claim of any pre-emptor failing to comply with the said provisions would, but for such default, have taken effect ; and,

(b) if and in so far as the claims decreed are different in degree, that the claim of the inferior pre-emptor shall not take effect unless and until the superior pre-emptor has failed to comply with the said provisions.

15. Where a suit is for the dissolution of a partnership, or the taking of partnership accounts, the Court, before passing a

Decree in suit for dissolution of partnership.

final decree, may pass a preliminary decree declaring the proportionate shares of the parties, fixing the day on which the partnership shall stand dissolved or be deemed to have been dissolved, and directing such accounts to be taken, and other acts to be done, as it thinks fit.

16. In a suit for an account of pecuniary transactions between a principal and an agent, and in any other suit not hereinbefore provided for, where it is necessary, in

Decree in suit for account between principal and agent.

order to

party,

before

directing such accounts to be taken as it thinks fit.

from any
rt shall
decree

17. The Court may either by the decree directing an account to be taken or by any subsequent order give special directions with regard to the mode in which the account is to be taken or ordered and in particular may direct that in taking the account the books of account in which the accounts in question have been kept shall be taken as *prima facie* evidence of the truth of the matters therein contained with liberty to the parties interested to take such objection thereto as they may be advised.

18. Where the Court passes a decree for the partition of property or for the separate possession of a share therein, then,—

Decree in suit for partition of property & share therein

(1) if and in so far as the decree relates to an estate assessed to the payment of revenue to the Government, the decree shall declare the rights of the several parties interested in the property, but shall direct such partition or separation to be made by the Collector, or any gazetted subordinate of the Collector deputed by him in this behalf, in accordance with such declaration and with the provisions of section 54 ;

(2) if and in so far as such decree relates to any other immovable property or to moveable property, the Court may, if the partition or separation cannot be conveniently made without further inquiry, pass a preliminary decree declaring the rights of the several parties interested in the property and giving such further directions as may be required.

19. (1) Where the defendant has been allowed a set-off against the claim of the plaintiff, the decree shall state what amount is due to the plaintiff and what amount is due to the defendant, and shall be for the recovery of any sum which appears to be due to either party.

Decree when set-off is allowed

(2) Any decree passed in a suit in which a set-off is claimed shall be subject to the same provisions in respect of appeal to which it would have been subject if no set-off had been claimed.

(3) The provisions of this rule shall apply whether the set-off is admissible under rule 6 of Order VIII or otherwise.

20. Certified copies of the judgment and decree shall be furnished to the parties on application to the Court, and at their expense.

Certified copies of judgment and decree to be furnished

ORDER XXI.

Execution of Decrees and Orders.

Payment under Decree.

Modes of paying money under decree

1. (1) All money payable under a decree shall be paid as follows, namely :—

- (a) into the Court whose duty it is to execute the decree ; or
- (b) out of Court to the decree-holder ; or
- (c) otherwise as the Court which made the decree directs.

(2) Where any payment is made under clause (a) of sub-rule (1) notice of such payment shall be given to the decree-holder.

2. (1) Where any money payable under a decree of any kind is paid out of Court, or the decree is otherwise adjusted in whole or in part to the satisfaction of the decree-holder, the decree-holder shall certify such payment or adjustment to the Court whose duty it is to execute the decree, and the Court shall record the same accordingly.

(2) The judgment-debtor also may inform the Court of such payment or adjustment, and apply to the Court

give a notice to the decree-holder to show cause, on a day to be fixed by the Court, why such payment or adjustment should not be recorded as certified; and if, after service of such notice, the decree-holder fails to show cause why the payment or adjustment should not be recorded as certified, the Court shall record the same accordingly.

(3) A payment or adjustment, which has not been certified or recorded as aforesaid, shall not be recognized by any Court executing the decree.

Courts executing Decrees.

3. Where immoveable property forms one estate or tenure situate within the local limits of the jurisdiction of two or more Courts, any one of such Courts may attach and sell the entire estate or tenure,

4. Where a decree has been passed in a suit of which the value as set forth in the plaint did not exceed two thousand rupees and which, as regards its subject-matter, is not excepted by the law for the time being in force from the cognizance of either a Presidency or a Provincial Court of Small Causes, and the Court which passed it wishes it to be executed in Calcutta, Madras, Bombay or Rangoon, such Court may send to the Court of Small Causes in Calcutta, Madras, Bombay or Rangoon, as the case may be, the copies and certificates mentioned in rule 6; and such Court of Small Causes shall thereupon execute the decree as if it had been passed by itself.

5. Where the Court to which a decree is to be sent for execution is situate within the same district as the Court which passed such decree, such Court shall send the same directly to the former Court. But, where the Court to which the decree is to be sent for execution is situate in a different district,

the Court which passed it shall send it to the District Court of the district in which the decree is to be executed.

6. The Court sending a decree for execution shall send—

Procedure where Court desires that its own decree shall be executed by another Court,

(a) a copy of the decree;

(b) a certificate setting forth that satisfaction of the decree has not been obtained by execution within the jurisdiction of the Court by which it was passed, or, where the decree has been executed in part, the extent to which satisfaction has been obtained and what part of the decree remains unsatisfied; and

(c) a copy of any order for the execution of the decree, or, if no such order has been made, a certificate to that effect.

7. The Court to which a decree is so sent shall cause such copies and certificates to be filed, without any farther proof of the decree or order for execution, or of the copies thereof, unless the Court, for any special reasons to be recorded under the hand of the Judge, requires such proof.

8. Where such copies are so filed, the decree or order may, if the Court to which it is sent is the District Court, be executed by such Court or be transferred for execution to any subordinate Court of competent jurisdiction.

9. Where the Court to which the decree is sent for execution is a High Court, the decree shall be executed by such Court in the same manner as if it had been passed by such Court in the exercise of its ordinary original civil jurisdiction.

Execution by High Court of decree transferred by other Court.

Application for execution.

10. Where the holder of a decree desires to execute it, he shall apply to the Court which passed the decree or to the officer (if any) appointed in this behalf, or if the decree has been sent under the provisions hereinbefore contained to another Court then to such Court or to the proper officer thereof.

11. (1) Where a decree is for the payment of money the Court may, on the oral application of the decree-holder at the time of the passing of the decree, order immediate execution thereof by the arrest of the judgment-debtor, prior to the preparation of a warrant if he is within the precincts of the Court.

(2) Save as otherwise provided by sub-rule (1), every application for the execution of a decree shall be in writing, signed and verified by the applicant or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case, and shall contain in a tabular form the following particulars, namely:—

- (a) the number of the suit ;
- (b) the names of the parties ;
- (c) the date of the decree ;
- (d) whether any appeal has been preferred from the decree ;
- (e) whether any, and (if any) what, payment or other adjustment of the matter in controversy has been made between the parties subsequently to the decree ;
- (f) whether any, and (if any) what, previous applications have been made for the execution of the decree, the dates of such applications and their results ;

(g) the amount with interest (if any) due upon the decree, or other relief granted thereby, together with particulars of any cross-decree, whether passed before or after the date of the decree sought to be executed ;

(h) the amount of the costs (if any) awarded ;

(i) the name of the person against whom execution of the decree is sought ; and

(j) the mode in which the assistance of the Court is required, whether—

(i) by the delivery of any property specifically decreed ;

(ii) by the attachment and sale, or by the sale without attachment, of any property ;

(iii) by the arrest and detention in prison of any person ;

(iv) by the appointment of a receiver ;

(v) otherwise, as the nature of the relief granted may require.

(3) The Court to which an application is made under sub-rule (2) may require the applicant to produce a certified copy of the decree.

12. Where an application is made for the attachment

Application for attachment of moveable property not in judgment-debtor's possession

of any moveable property belonging to a judgment-debtor but not in his possession, the decree-holder shall annex to the application an inventory of the property to be attached, containing a reasonably accurate description of the same.

13. Where an application is made for the attachment

Application for attachment of immovable property to contain certain particulars

of any immovable property belonging to a judgment-debtor, it shall contain at the foot—

(a) a description of such property sufficient to identify the same and, in case such property can be

- identified by boundaries or numbers in a record of settlement or survey, a specification of such boundaries or numbers ; and
- (b) a specification of the judgment-debtor's share or interest in such property to the best of the belief of the applicant, and so far as he has been able to ascertain the same.

14. Where an application is made for the attachment of any land which is registered in the office of the Collector, the Court may require the applicant to produce a certified extract from the register of such office, specifying the persons registered as proprietors of, or as possessing, any transferable interest in, the land or its revenue, or as liable to pay revenue for the land, and the shares of the registered proprietors.

15. (1) Where a decree has been passed jointly in favour of more persons than one, any one or more of such persons may, unless the decree imposes any condition to the contrary apply for the execution of the whole decree for the benefit of them all, or, where any of them has died, for the benefit of the survivors and the legal representatives of the deceased.

(2) Where the Court sees sufficient cause for allowing the decree to be executed on an application made under this rule it shall make such order as it deems necessary for protecting the interests of the persons who have not joined in the application.

16. Where a decree or, if a decree has been passed jointly in favour of two or more persons, the interest of any decree-holder in the decree is transferred by assignment in writing or by operation of law, the transferee may apply for execution of the decree to the Court which passed it; and the decree may be executed in the same manner and

subject to the same conditions as if the application were made by such decree-holder :

Provided that, where the decree, or such interest as aforesaid, has been transferred by assignment, notice of such application shall be given to the transferor and the judgment-debtor, and the decree shall not be executed until the Court has heard their objections (if any) to its execution :

Provided also that, where a decree for the payment of money against two or more persons has been transferred to one of them, it shall not be executed against the others.

17. (1) O

Procedure on receiving application for execution of decree

rules 11 to
complied with
the Court has
defect to
be fixed by it.

under the provisions
to have been applied
and presented on

rule shall be

the Court shall enter in the proper register a note of the application and the date on which it was made, and shall, subject to the provisions hereinafter contained, order execution of the decree according to the nature of the application :

Provided that in the case of a decree for the payment of money, the value of the property attached shall, as nearly as may be, correspond with the amount due under the decree.

18. (1) Where applications are made to a Court for the execution of cross-decrees in separate suits for the payment of two sums of money passed between the same parties and capable of execution at the same time by such Court, then—

(a) if the two sums are equal, satisfaction shall be entered upon both decrees ; and

(b) if the two sums are unequal, execution may be taken out only by the holder of the decree for the larger sum and for so much only as remains after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum.

(2) This rule shall be deemed to apply where either party is an assignee of one of the decrees and as well in respect of judgment-debts due by the original assignor as in respect of judgment-debts due by the assignee himself.

(3) This rule shall not be deemed to apply unless—

(a) the decree-holder in one of the suits in which the decrees have been made is the judgment-debtor in the other and each party fills the same character in both suits ; and

(b) the sums due under the decrees are definite.

(4) The holder of a decree passed against several persons jointly and severally may treat it as a cross-decree in relation to a decree passed against him singly in favour of one or more of such persons.

Illustrations.

(a) A holds a decree against B for Rs. 1,000. B holds a decree against A for the payment of Rs. 1,000 in case A fails to deliver certain goods at a future day. B cannot treat his decree as a cross-decree under this rule.

- (b) A and B, co-plaintiffs, obtain a decree for Rs. 1,000 against C, and C obtains a decree for Rs. 1,000 against B. C cannot treat his decree as a cross-decree under this rule.
- (c) A obtains a decree against B for Rs. 1,000. C, who is a trustee for B, obtains a decree on behalf of B against A for Rs. 1,000. B cannot treat C's decree as a cross-decree under this rule.
- (d) A, B, C, D and E are jointly and severally liable for Rs. 1,000 under a decree obtained by F. A obtains a decree for Rs. 100 against F singly and applies for execution to the Court in which the joint-decree is being executed. F may treat his joint-decree as a cross-decree under this rule.

19. Where application is made to a Court for the execution of a decree under which two parties are entitled to recover sums of money from each other, then,—

- (a) if the two sums are equal, satisfaction for both shall be entered upon the decree; and,
- (b) if the two sums are unequal, execution may be taken out only by the party entitled to the larger sum and for so much only as remains after deducting the smaller sum, and satisfaction for the smaller sum shall be entered upon the decree.

20. The provisions contained in rules 18 and 19 shall apply to decrees for sale in enforcement of a mortgage or charge.

21. The Court may, in its discretion, refuse execution at the same time against the person and property of the judgment-debtor.

22. (1) Where an application for execution is made—

Execution in case of cross-claims under same decree.

Cross-decrees and cross-claims in same suit.

Simultaneous execution.

Notice to show cause against execution in certain cases.

(a) more than one year after the date of the decree,
or

(b) against the legal representative of a party to the
decree,

the Court executing the decree shall issue a notice to the person against whom execution is applied for requiring him to show cause, on a date to be fixed, why the decree should not be executed against him ;

Provided that no such notice shall be necessary in consequence of more than one year having elapsed between the date of the decree and the application for execution if the application is made within one year from the date of the decree against the party against whom execution is applied for by previous application of the application being made against the legal representative of the judgment-debtor, if upon a previous application for execution against the same person the Court has ordered execution to issue against him.

(2) Nothing in the foregoing sub-rule shall be deemed to preclude the Court from issuing any process in execution of a decree without issuing the notice thereby prescribed, if, for reasons to be recorded, it considers that the issue of such notice would cause unreasonable delay or would defeat the ends of justice.

23. (1) Where the person to whom notice is issued under the last preceding rule does not appear, or does not show cause to the satisfaction of the Court why the decree should not be executed, the Court shall order the decree to be executed.

(2) Where such person offers any objection to the execution of the decree, the Court shall consider such objection and make such order as it thinks fit.

Process for execution.

24. (1) When the preliminary measures (if any) require
Process for execution by the foregoing rules have been taken the Court shall, unless it sees cause to the contrary, issue its process for the execution of the decree.

(2) Every such process shall bear date the day on which it is issued, and shall be sealed with the hand of such officer as the Court may direct, and shall be served on the debtor to the proper officer to be executed.

(3) In every such process a day shall be specified on or before which it shall be executed.

25. (1) The officer entrusted with the execution of the process shall endorse thereon the day on, and the manner in, which it was executed, and, if the latest day specified in the process for the return thereof has been exceeded, the reason of the delay, or, if it was not executed, the reason why it was not executed, and shall return the process with such endorsement to the Court.

It is to the effect that such process, the Court shall examine him touching his alleged inability, and may, if it thinks fit, summon and examine witnesses as to such inability and shall record the result.

Stay of execution.

26. (1) The Court to which a decree has been sent for execution shall, upon sufficient cause being shown, stay the execution of such decree for a reasonable time, to enable the judgment-debtor to apply to the Court by which the decree was passed, or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay execution, or for any other order relating to the decree or execution which might have been made by

such Court of first instance or appellate Court if execution had been issued thereby, or if application for execution had been made thereto.

(2) Where the property or person of the judgment-debtor has been seized under an execution, the Court which issued the execution may order the restitution of such property or the discharge of such person pending the result of the application.

(3) Before making an order to stay execution or for the restitution of property or the discharge of the judgment-debtor, the Court may require such security from, or impose such conditions upon, the judgment-debtor as it thinks fit.

Power to require security from, or impose conditions upon, judgment-debtor.

27. No order of restitution or discharge under rule 26 shall prevent the property or person of a judgment-debtor from being re-taken in execution of the decree sent for execution.

Liability of judgment-debtor discharged.

28. Any order of the Court by which the decree was passed, or of such Court of appeal as aforesaid, in relation to the execution of such decree, shall be binding upon the Court to which the decree was sent for execution.

Order of Court which sends decree or of appellate Court to be binding upon Court applied to.

29. Where a suit is pending in any Court against the holder of a decree of such Court, on the part of the person against whom the decree was passed, the Court may, on such terms as to security or otherwise, as it thinks fit, stay execution of the decree until the pending suit has been decided.

Stay of execution pending suit between decree-holder and judgment-debtor.

Mode of execution.

30. Every decree for the payment of money, including a decree for the payment of money as the alternative to some other relief,

Decree for payment of money.

may be executed by the detention in the civil prison of the judgment-debtor or by the attachment and sale of his property, or by both.

31. (1) Where the decree is for any specific moveable, or for any share in a specific moveable, it may be executed by the seizure, if practicable, of the moveable or share, and by the delivery thereof to the party to whom it has been adjudged, or to such person as he appoints to receive delivery on his behalf, or by the detention in the civil prison of the judgment-debtor, or by the attachment of his property, or by both.

(2) Where any attachment under sub-rule (1) has remained in force for six months, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, such property may be sold, and out of the proceeds the Court may award to the decree-holder, in cases where any amount has been fixed by the decree to be paid as an alternative to delivery of moveable property, such amount, and, in other cases, such compensation as it thinks fit, and shall pay the balance (if any) to the judgment-debtor on his application.

(3) Where the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or where, at the end of six months from the date of the attachment, no application to have the property sold has been made, or, if made, has been refused, the attachment shall cease.

32. (1) Where the party against whom a decree for the specific performance of a contract, or for restitution of conjugal rights, or for an injunction, has been passed, has had an opportunity of obeying the decree and has wilfully failed to obey it, the decree may be en-

Decree for specific performance of contract, or for restitution of conjugal rights, or for an injunction.

Forced by his detention in the civil prison, or by the attachment of his property, or by both.

(2) Where the party against whom a decree for specific performance or for an injunction has been passed is a corporation, the decree may be enforced by the attachment of the property of the corporation or, with the leave of the Court, by the detention in the civil prison of the directors or other principal officers thereof, or by both attachment and detention.

(3) Where any attachment under sub-rule (1) or sub-rule (2) has remained in force for one year, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, such property may be sold, and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit, and shall pay the balance (if any) to the judgment-debtor on his application.

(4) Where the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or where, at the end of one year from the date of the attachment, no application to have the property sold has been made, or if made has been refused, the attachment shall cease.

(5) Where a decree for the specific performance of a contract or for an injunction has not been obeyed, the Court may, in lieu of or in addition to all or any of the processes aforesaid, direct that the act required to be done may be done so far as practicable by the decree-holder or some other person appointed by the Court, at the cost of the judgment-debtor and upon the act being done the expenses incurred may be ascertained in such manner as the Court may direct and may be recovered as if they were included in the decree.

Illustration.

A, a person of little substance, erects a building which renders uninhabitable a family mansion, belonging to B. A?

may be executed by the detention in the civil prison of the judgment-debtor or by the attachment and sale of his property, or by both.

31. (1) Where the decree is for any specific moveable, or for any share in a specific moveable, it may be executed by the seizure, if practicable, of the moveable or share, and by the delivery thereof to the party to whom it has been adjudged, or to such person as he appoints to receive delivery on his behalf, or by the detention in the civil prison of the judgment-debtor, or by the attachment of his property, or by both.

(2) Where any attachment under sub-rule (1) has remained in force for six months, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, such property may be sold, and out of the proceeds the Court may award to the decree-holder, in cases where any amount has been fixed by the decree to be paid as an alternative to delivery of moveable property, such amount, and, in other cases, such compensation as it thinks fit, and shall pay the balance (if any) to the judgment-debtor on his application.

(3) Where the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or where, at the end of six months from the date of the attachment, no application to have the property sold has been made, or, if made, has been refused, the attachment shall cease.

32. (1) Where the party against whom a decree for the specific performance of a contract or for restitution of conjugal rights, or for an injunction, has been passed, had an opportunity of obeying the decree and has wilfully failed to obey it, the decree may be executed by the detention in the civil prison of the judgment-debtor or by the attachment and sale of his property, or by both.

in spite of his detention in prison and the attachment of his property, declines to obey a decree obtained against him by B and directing him to remove the building. The Court is of opinion that no sum realizable by the sale of A's property would adequately compensate B for the depreciation in the value of his mansion. B may apply to the Court to remove the building and may recover the cost of such removal from A in the execution-processings.

33. (1) Notwithstanding anything in rule 32, the Court, either at the time of passing a decree for the restitution of conjugal rights or at any time afterwards, may order that the decree shall not be executed by detention in prison.

(2) Where the Court has made an order under sub-rule (1), and the decree-holder is the wife, it may order that in the event of the decree not being obeyed within such period as may be fixed in this behalf, the judgment-debtor shall make to the decree-holder such periodical payments as may be just, and, if it thinks fit, require that the judgment-debtor shall, to its satisfaction, secure to the decree-holder such periodical payments.

(3) The Court may from time to time vary or modify any order made under sub-rule (2) for the periodical payment of money, either by altering the times of payment or by increasing, or diminishing the amount, or may temporarily suspend the same as to the whole or any part of the money so ordered to be paid, and again revive the same, either wholly or in part as it may think just.

(4) Any money ordered to be paid under this rule may be recovered as a debt due to the decree-holder for the payment of which it was ordered to be paid.

34. (1) Where

Decree for execution of document, or enforcement of negotiable instrument, etc.

is a decree of a Court of law
is a decree of a Court of law
is a decree of a Court of law
is a decree of a Court of law

in spite of his detention in prison and the attachment of his property, declines to obey a decree obtained against him by B and directing him to remove the building. The Court is of opinion that no sum realizable by the sale of A's property would adequately compensate B for the depreciation in the value of his mansion. B may apply to the Court to remove the building and may recover the cost of such removal from A in the execution-processings.

33. (1) Notwithstanding anything in rule 32, the Court, either at the time of passing a decree for the restitution of conjugal rights or at any time afterwards, may in its discretion order that the decree shall not be executed by detention in prison.

(2) Where the Court has made an order under rule (1), and the decree-holder is the wife, it may order that in the event of the decree not being obeyed within such period as may be fixed in this behalf, the judgment-debtor shall make to the decree-holder such periodical payments as may be just, and, if it thinks fit, require that the judgment-debtor shall, to its satisfaction, secure to the decree-holder such periodical payments.

(3) The Court may from time to time vary or modify any order made under sub-rule (2) for the periodical payment of money, either by altering the times of payment or by increasing, or diminishing the amount, or may temporarily suspend the same as to the whole or any part of the money so ordered to be paid, and again revive the same, either wholly or in part as it may think just.

(4) Any money ordered to be paid under this rule may be recovered as though it were payable under a decree for the payment of money.

34. (1) Where a decree is for the execution of a document or for the endorsement of a negotiable instrument and the judgment-debtor neglects or refuses to obey the

Decree for execution of document or endorsement of negotiable instrument.

If necessary, by removing any person bound by the decree who refuses to vacate the property.

(2) Where a decree is for the joint possession of immovable property such possession shall be delivered to affixing a copy of the warrant in some conspicuous place on the property and proclaiming by beat of drum or other customary mode, at some convenient place, the substance of the decree.

(3) Where possession of any building or enclosure is to be delivered and the person in possession, being bound by the decree, does not afford free access, the Court through its officers, may, after giving reasonable warning and facility to any woman not appearing in public according to the customs of the country to withdraw, remove or open any lock or bolt or break open any door or do any other act necessary for putting the decree-holder in possession.

36. Where a decree is for the delivery of any immovable property in the occupancy of a tenant or other person entitled to occupy the same and not bound by the decree to relinquish such occupancy, the Court shall order delivery to be made by affixing a copy of the warrant in some conspicuous place on the property, and drum or other substance of the

Arrest and detention in the civil prison.

37. (1) Notwithstanding anything in these rules may be where an application is for the execution of a decree for the payment of money by the arrest and detention in the civil prison of a judgment-debtor who is arrested in pursuance of the application, the Court may, instead of issuing a warrant for his arrest

Decree for delivery of document, discharge of public instrument

34. (1)

Discharge

(2) Where a decree is made in favour of a person who refuses to vacate the property:

(2) Where a decree is for the joint possession of moveable property such possession shall be delivered by affixing a copy of the warrant in some conspicuous place on the property and proclaiming by beat or other customary mode, at some convenient place the substance of the decree.

(3) Where possession of any building or enclosure is to be delivered and the person in possession, being by the decree, does not afford free access, through its officers, may, after giving reasonable notice and facility to any woman not appearing in accordance to the customs of the country to visit, remove or open any lock or bolt or break open any door or do any other act necessary for putting the holder in possession.

36. Where a decree is for the delivery of an immovable property in the occupation of a tenant or other person entitled to occupy the same and not bound by a decree to relinquish such occupancy, delivery to be made by affixing a copy of the warrant in some conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode, at some convenient place, the substance of the decree in regard to the property.

Arrest and detention in the civil prison.

37. (2) Notwithstanding anything in these rules, where an application is for the execution of a decree for the payment of money by the arrest and detention in the civil prison of a judgment-debtor who may be arrested in pursuance of the application, the court may, instead of issuing a warrant for his arrest, make an order for his arrest and detention in the civil prison.

Deems for
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sue a warrant for the arrest of the judgment-debtor.

38. Every warrant for the arrest of a judgment-debtor shall direct the officer entrusted with its execution to bring him before the Court with all convenient speed, unless the amount which he has been ordered to pay, together with the interest thereon and the costs (if any) to which he is liable, be sooner paid.

Warrant for arrest
direct judgment-
debtor to be brought
p.

39. (1) No judgment-debtor shall be arrested in execution of a decree unless and until the decree-holder pays into Court such sum as the Judge thinks sufficient for the subsistence of the judgment-debtor from the time of his arrest until he can be brought before the Court.

Subsistence allowance

(2) Where a judgment-debtor is committed to the civil prison in execution of a decree the Court shall fix for his subsistence such monthly allowance as he may be entitled to according to the scales fixed under section 37 or, where no such scales have been fixed, as it considers sufficient with reference to the class to which he belongs.

(3) The monthly allowance fixed by the Court shall be supplied by the party on whose application the judgment-debtor has been arrested by monthly payments in advance before the first day of each month.

(4) The first payment shall be made to the proper officer of the Court for such portion of the current month as remains unexpired before the judgment-debtor is committed to the civil prison, and the subsequent payments (if any) shall be made to the officer in charge of the civil prison.

If necessary, by removing any person bound by the decree who refuses to vacate the property.

(2) Where a decree is for the joint possession of moveable property such possession shall be delivered affixing a copy of the warrant in some conspicuous place on the property and proclaiming by beat of drum or other customary mode, at some convenient place, substance of the decree.

(3) Where possession of any building or enclosure to be delivered and the person in possession, being bound by the decree, does not afford free access, the Court through its officers, may, after giving reasonable warning and facility to any woman not appearing in public according to the customs of the country to withdraw remove or open any lock or bolt or break open any door or do any other act necessary for putting the decree holder in possession.

36. Where a decree is for the delivery of any moveable property in the occupancy of a tenant or other person entitled to

Decree for delivery of immovable property when in occupancy of tenant

Court shall order the warrant in some conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode, at some convenient place, the substance of the decree in regard to the property.

Arrest and detention in the civil prison.

27. (1) Notwithstanding anything in these rules may, be where an application is for the execution of a decree for the payment of money by the arrest and detention in the civil prison of a judgment-debtor who is arrested in pursuance of the application, the Court may, instead of issuing a warrant for his arrest,

34. (1) where an application is for the execution of a decree for the payment of money by the arrest and detention in the civil prison of a judgment-debtor who is arrested in pursuance of the application, the Court may, instead of issuing a warrant for his arrest,

Decree for delivery of document or decree or other instrument

- (c) any undue preference given by the judgment-debtor to any of his other creditors ;
 - (d) refusal or neglect on the part of the judgment-debtor to pay the amount of the decree or some part thereof when he has, or since the date of the decree has had, the means of paying it ;
 - (e) the likelihood of the judgment-debtor absconding or leaving the jurisdiction of the Court with the object or effect of obstructing or delaying the decree-holder in the execution of the decree.
- (3) While any of the matters mentioned in sub-rule (1) are being considered, the Court may, in its discretion, the civil

y the Court.

(4) A judgment-debtor released under this rule may be re-arrested.

(5) Where the Court does not make an order under sub-rule (1), it shall cause the judgment-debtor to be arrested if he has not already been arrested and, subject to the other provisions of this Code, commit him to the civil prison.

Attachment of property.

41. Where a decree is for the payment of money the decree-holder may apply to the Court for an order that—

Examination of judgment-debtor as to his property.

- (a) the judgment-debtor, or
- (b) in the case of a corporation, any officer thereof, or,
- (c) any other person,

be orally examined as to whether any or what debts are owing to the judgment-debtor and whether the judgment-debtor has any and what other property or means satisfying the decree ; and the Court may make an order for the attendance and examination of such judgment-debtor, or officer or other person, and for the production of any books or documents.

42. Where a decree directs an inquiry as to real or mesne profits or any other matter, the property of the judgment-debtor may, before the amount due from him has been ascertained, be attached, as in the case of an ordinary decree for the payment of money

43. Attachment in case of decree for rent or mesne profits or other matter amount of which to be subsequently determined

Attachment of all the property of the judgment-debtor

seizure, and the attaching officer shall keep the property in his own custody or in the custody of one of his subordinates, and shall be responsible for the due custody thereof.

Provided that, when the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody is likely to exceed its value, the attaching officer may sell it at once.

44. Where the property to be attached is agricultural produce, the attachment shall be made by affixing a copy of the warrant of attachment--

Attachment of agricultural produce

- (a) where such produce is a growing crop, on the land on which such crop has grown or

(b) where such produce is a growing crop, on the land on which such crop has grown or

where it is deposited,

and another copy on the outer door or on some other

house in which he carries on business or personally works for gain or in which he is known to have last resided or carried on business or personally worked for gain and the produce shall thereupon be deemed to have passed into the possession of the Court.

45. (1) Where agricultural produce is attached, the Court shall make such arrangements for the custody thereof as it may deem sufficient and, for the purpose of enabling the Court to make such arrangements, every application for the attachment of a growing crop shall specify the time at which it is likely to be fit to be cut or gathered.

(2) Subject to such conditions as may be imposed by the Court in this behalf either in the order of attachment or in any subsequent order, the judgment-debtor may tend, cut, gather and store the produce and do any other act necessary for maturing or preserving it; and if the judgment-debtor fails to do all or any of such acts, the decree-holder may, with the permission of the Court and subject to the like conditions, do all or any of them either by himself or by any person appointed by him in this behalf, and the costs incurred by the decree-holder shall be recoverable from the judgment-debtor as if they were included in, or formed part of, the decree.

(3) Agricultural produce attached as a growing crop shall not be deemed to have ceased to be under attachment or to require re-attachment merely because it has been sowed from the soil.

(4) Where an order for the attachment of a growing crop has been made at a considerable time before the crop is likely to be fit to be cut or gathered, the Court may suspend the execution of the order for such time as it

(3) Every order made under this rule, unless it is returned in accordance with the provisions of sub-rule (2), shall, without further notice or other process, bind the Government or the railway company or local authority, as the case may be, as a judgment-debtor is within the limits of the Code for the time being in force. No order shall be made against those limits if he is in receipt of any salary or allowances payable out of His Majesty's Indian revenues or the funds of a railway company carrying on business in any part of British India or local authority in British India; and the Government or the railway company or local authority, as the case may be, shall be liable for any sum paid in contravention of this rule.

49. (1) Save as otherwise provided by this rule, property belonging to a partnership shall not be attached or sold in execution of a decree other than a decree passed against the firm or against the partners in the firm as such.

(2) The Court may, on the application of the holder of a decree against a partner, make an order charging the interest of such partner in the partnership property and profits with payment of the amount due under the decree, and may, by the same or a subsequent order, appoint a receiver of the share of such partner in the profits (whether already declared or accruing) and of any other money which may be coming to him in respect of the partnership, and direct accounts and inquiries and make an order for the sale of such interest or other interest as might have been directed or made if a charge had been made in favour of the decree-holder by such partner, or as the circumstances of the case may require.

(3) The other partner or partners shall be at liberty at any time to redeem the interest charged or, in the case of a sale being directed, to purchase the same.

(4) Every application for an order under sub-rule (2) shall be served on the judgment-debtor and on his partners or such of them as are within British India.

... partner of the
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... the application and

... sub-rule (5) shall be deemed to be service on all the partners, and all orders made on such applications shall be similarly served:

50. (1) Where a decree has been passed against a firm, execution may be granted—

- (a) against any property of the partnership ;
- (b) against any person who has appeared in his own name under rule 6 or rule 7 of Order XXX or who has admitted on the pleadings that he is, or who has been adjudged to be, a partner ;
- (c) against any person who has been individually served as a partner with a summons and has

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than such a person as is referred to in sub-rule (1) clauses (b) and (c), as being a partner in the firm, he may apply to the Court which passed the decree for leave, and where the liability is not disputed, such Court may grant such leave, or, where such liability is disputed, may order that the liability of such person be tried and determined in any manner in which any issue in a suit may be tried and determined.

(3) Where the liability of any person has been tried and determined under sub-rule (2), the order made there-

by the decree attached; and no payment or adjustment of the attached decree made by the judgment-debtor in contravention of such order after receipt of notice thereof, either through the Court or otherwise, shall be recognized by any Court so long as the attachment remains in force.

54. (1) Where the property is immoveable, the attachment shall be made by an order prohibiting the judgment-debtor from transferring or changing the property in any way, and all persons from taking any benefit from such transfer or charge.

(2) The order shall be proclaimed at some place on or adjacent to such property by beat of drum or other customary mode, and copy of the order shall be affixed on a conspicuous part of the property and then upon a conspicuous part of the court-house, and also, where the property is land paying revenue to the Government, in the office of the Collector of the district in which the land is situate.

Removal of attachment after satisfaction of decree

55. Where—

- (a) the amount decreed with costs and all charges and expenses resulting from the attachment of any property are paid into Court, or
- (b) satisfaction of the decree is otherwise made through the Court or certified to the Court or
- (c) the decree is set aside or reversed,

the attachment shall be deemed to be withdrawn, and in the case of immoveable property, the withdrawal shall, if the judgment-debtor so desires, be proclaimed at his expense, and a copy of the proclamation shall be affixed in the manner prescribed by the last preceding rule.

56. Where the property attached is current coin or currency notes, the Court may, at any time during the continuance of the attachment, direct that such coin or notes, or a part thereof sufficient to satisfy the decree, be paid over to the party entitled under the decree to receive the same.

57. Where any property has been attached in execution of a decree but by reason of the decree-holder's default the Court is unable to proceed with the execution, it shall either on sufficient reason appearing, or upon the dismissal of such application the attachment shall cease.

Investigation of claims and objections.

58. (1) Where any claim is preferred to, or any objection is made to the attachment of, any property attached in execution of a decree on the ground that such property is not liable to such attachment, the Court shall proceed to investigate the claim or objection with the like power as regards the examination of the claimant or objector, and in all other respects, as if he was party to the suit :

Provided that no such investigation shall be made where the Court considers that the claim or objection was designedly or unnecessarily delayed.

(2) Where the property to which the claim or objection applies has been advertised for sale, the Court ordering the sale may postpone it pending the investigation of the claim or objection.

59. The claimant or objector must adduce evidence to show that at the date of the attachment he had some interest in, or was possessed of, the property attached.

60. Where upon the said investigation the Court is satisfied that for the reason stated in the claim or objection such property was not, when attached, in the possession of the judgment-debtor or of some person in trust for him, or in the occupancy of a tenant or other person paying rent to him, or that, being in the possession of the judgment-debtor at such time, it was so in his possession, not on his own account or as his own property, but on account of or in trust for some other person, or partly on his own account and partly on account of some other person, the Court shall make an order releasing the property, wholly or to such extent as it thinks fit, from attachment.

61. Where the Court is satisfied that the property was, at the time it was attached, in the possession of the judgment-debtor as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the Court shall disallow the claim.

62. Where the Court is satisfied that the property is subject to a mortgage or charge in favour of some person not in possession, and thinks fit to continue the attachment, it may do so, subject to such mortgage or charge.

63. Where a claim or an objection is preferred, the party against whom an order is made may institute a suit to establish the right which he claims to the property in dispute, but, subject to the result of such suit, if any, the order shall be conclusive.

Sale generally.

64. Any Court executing a decree may order that any property attached by it and liable to sale, or such portion thereof as may seem necessary to satisfy the decree, shall be sold, and that the proceeds of such sale, or a sufficient portion thereof, shall be paid to the party entitled under the decree to receive the same.

65. Save as otherwise prescribed, every sale in execution of a decree shall be conducted by an officer of the Court or by such other person as the Court may appoint in this behalf, and shall be made by public auction in manner prescribed.

66. (1) Where any property is ordered to be sold by public auction in execution of a decree the Court shall cause a proclamation of the intended sale to be made in the language of such Court.

(2) Such proclamation shall be drawn up after notice to the decree-holder and the judgment-debtor and shall state the time and place of sale, and specify as fairly and accurately as possible—

- (a) the property to be sold ;
- (b) the revenue assessed upon the estate or part of the estate, where the property to be sold is an interest in an estate, or in part of an estate paying revenue to the Government ;
- (c) any incumbrance to which the property is liable ;
- (d) the amount for the recovery of which the sale is ordered ;
- (e) every other thing which the Court considers material for a purchaser to know in order to judge of the nature and value of the property.

(3) Every application for an order for sale under this rule shall be accompanied by a statement signed and verified in the manner hereinbefore prescribed for the signing and verification of pleadings and containing, as far as they are known to or can be ascertained by the person making the verification, the matters required by sub-rule (2) to be specified in the proclamation.

(4) For the purpose of ascertaining the matters to be specified in the proclamation, the Court may summon any person whom it thinks necessary to summon and may examine him in respect to any such matters and require him to produce any document in his possession or power relating thereto.

67. (1) Every proclamation shall be made and published, as nearly as may be, in the manner prescribed by rule 51, sub-rule (2).

Mode of making proclamation

(2) Where the Court so directs, such proclamation shall also be published in the local official Gazette or in a local newspaper, or in both, and the costs of such publication shall be deemed to be costs of the sale.

(3) Where property is divided into lots for the purpose of being sold separately, it shall not be necessary to make a separate proclamation for each lot, unless proper notice of the sale cannot, in the opinion of the Court, otherwise be given.

68. Save in the case of property of the kind described in the proviso to rule 43, no sale hereunder shall, without the consent in writing of the judgment-debtor, take place until after the expiration of at least thirty days in the case of immoveable property, and of at least fifteen days in the case of moveable property, calculated from the date on which the copy of the proclamation has been affixed on the court-house of the Judge ordering the sale.

Time of sale.

69. (1) The Court may, in its discretion, adjourn any sale hereunder to a specified day or second hour, and the officer conducting any such sale may in his discretion adjourn the sale, recording his reasons for such adjournment:

Provided that, where the sale is made in, or within the precincts of, the court-house, no such adjournment shall be made without the leave of the Court.

(2) Where a sale is adjourned under sub-rule (1) for a longer period than seven days, a fresh proclamation under rule 67 shall be made, unless the judgment-debtor consents to waive it.

(3) Every sale shall be stopped if, before the lot is knocked down, the debt and costs (including the costs of the sale) are tendered to the officer conducting the sale, or proof is given to his satisfaction that the amount of such debt and costs has been paid into the Court which ordered the sale.

70. Nothing in rules 66 to 69 shall be deemed to apply to any case in which the execution of a decree has been transferred to the Collector.

71. Any deficiency of price which may happen on a re-sale by reason of the purchaser's default, and all expenses attending such re-sale, shall be certified to the Court or to the Collector or subordinate of the Collector, as the case may be, by the officer or other person holding the sale, and shall, at the instance of either the decree-holder or the judgment-debtor, be recoverable from the defaulting purchaser under the provisions relating to the execution of a decree for the payment of money.

72. (1) No holder of a decree in execution of which property is sold shall, without the express permission of the Court, bid for or purchase the property.

Decree-holder not to bid for or buy property without permission.

Saving of certain sales.

Defaulting purchaser answerable for loss on re-sale.

any lot, the bidding shall be deemed to be the bidding of the co-owner.

78. No irregularity in publishing or conducting the sale of moveable property shall vitiate the sale; but any person sustaining injury by reason of such irregularity in the hand of any other person may institute a suit against him for compensation or (if such other person is the purchaser) for the recovery of the specific property and for compensation in default of such recovery.

79. (1) Where the property sold is moveable property of which actual seizure has been made, it shall be delivered to the purchaser.

(2) Where the property sold is moveable property in the possession of some person other than the judgment debtor, the delivery thereof to the purchaser shall be made by giving notice to the person in possession prohibiting him from delivering possession of the property to any person except the purchaser.

(3) Where the property sold is a debt not secured by a negotiable instrument, or is a share in a corporation, the delivery thereof shall be made by a written order of the Court prohibiting the creditor from receiving the debt or any interest thereon, and the debtor from making payment thereof to any person except the purchaser, or prohibiting the person in whose name the share may be standing from making any transfer of the share to any person except the purchaser, or receiving payment of any dividend or interest thereon, and the manager, secretary or other proper officer of the corporation from permitting any such transfer or making any such payment to any person except the purchaser.

(4) Where the execution of a document or the endorsement of the party in whose name a negotiable instrument or a share in a corporation is standing is required to transfer such negotiable instrument or share, the Judge or such officer as he may appoint in this behalf may execute such

document or make such endorsement as may be necessary, and such execution or endorsement shall have the same effect as an execution or endorsement by the party.

(2) Such execution or endorsement may be in the following form, namely :—

A. B. by C. D., Judge of the Court of (or as the case may be), in a suit by E. F. against A. B.

(3) Until the transfer of such negotiable instrument or share, the Court may, by order, appoint some person to receive any interest or dividend due thereon and to sign a receipt for the same; and any receipt so signed shall be as valid and effectual for all purposes as if the same had been signed by the party himself.

81. In the case of any moveable property not herein-
vesting order in case of other property before provided for, the Court may make an order vesting such property in the purchaser or as he may direct; and such property shall vest accordingly.

Sale of immoveable property.

82. Sales of immoveable property in execution of decrees may be ordered by any Court
What Courts may order sales. other than a Court of Small Causes.

83. (1) Where an order for the sale of immoveable property has been made, if the judgment-debtor can satisfy the Court that there is reason to believe that the amount of the decree may be raised by the mortgage or lease or private sale of such property, or some part thereof, or of any other immoveable property of the judgment-debtor, the Court may, on his application, postpone the sale of the property comprised in the order for sale on such terms and for such period as it thinks proper, to enable him to raise the amount.
Postponement of sale to enable judgment-debtor to raise amount of decree.

(2) In such case the Court shall grant a certificate to the judgment-debtor authorizing him within a period to be mentioned therein, and notwithstanding anything

contained in section 64, to make the proposed mortgage, lease or sale :

Provided that all monies payable under such mortgage, lease or sale shall be paid, not to the judgment-debtor but, save in so far as a decree-holder is entitled to set off such money under the provisions of rule 72, into Court.

Provided also that no mortgage, lease or sale under this rule shall become absolute until it has been confirmed by the Court

(3) Nothing in this rule shall be deemed to apply to a sale of property directed to be sold in execution of a decree for sale in enforcement of a mortgage of, or charge on, such property.

84. (1) On every sale of immoveable property the person declared to be the purchaser shall pay immediately after such declaration a deposit of twenty-five per cent. on the amount of his purchase-money to the officer or other person conducting the sale, and, in default of such deposit, the property shall forthwith be re-sold.

(2) Where the decree-holder is the purchaser and is entitled to set off the purchase-money under rule 72, the Court may dispense with the requirements of this rule.

85. The full amount of purchase-money payable shall be paid by the purchaser into Court before the Court closes on the fifteenth day from the sale of the property.

Provided that, in calculating the amount to be so paid into Court, the purchaser shall have the advantage of any set-off to which he may be entitled under rule 72:

86. In default of payment within the period mentioned in the last preceding rule, the deposit may, if the Court thinks fit, after defraying the expenses of the sale, be forfeited to the Government, and the property shall be re-sold and the defaulting purchaser shall forfeit all claim to the property.

or to any part of the sum for which it may subsequently be sold.

87. Every re-sale of immoveable property, in default of payment of the purchase-money within the period allowed for such payment shall be made after the issue of a fresh proclamation in the manner and for the period hereinbefore prescribed for the sale.

88. Where the property sold is a share of undivided immoveable property and two or more persons, of whom one is a co-sharer, respectively bid the same sum for such property or for any lot, the bid shall be deemed to be the bid of the co-sharer.

89. (1) Where immoveable property has been sold in execution of a decree, any person, either owning such property or holding an interest therein by virtue of a title acquired before such sale, may apply to have the sale set aside on his depositing in Court,—

- (a) for payment to the purchaser, a sum equal to five per cent. of the purchase-money, and
- (b) for payment to the decree-holder, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, less any amount which may, since the date of such proclamation of sale, have been received by the decree-holder.

rule 90 to set aside
he shall not, unless
itled to make or

(3) Nothing in this rule shall relieve the judgment-debtor from any liability he may be under in respect of costs and interest not covered by the proclamation of sale.

90. (1) Where any immovable property has been sold in execution of a decree, the decree holder, or any person entitled to share in a rateable distribution of assets, whose interests are affected by the sale, may apply to the Court to set aside the sale on the ground of irregularity or fraud in

Provided that no sale shall be set aside on the ground of irregularity or fraud unless upon the facts proved the Court is satisfied that the applicant has sustained substantial injury by reason of such irregularity or fraud.

91. The purchaser at any such sale in execution of a decree may apply to the Court to set aside the sale, on the ground that the judgment-debtor had no saleable interest in the property.

92 (1)

When the Court is satisfied that the sale is irregular or fraudulent, it shall make an order confirming the sale, and thereupon the sale shall become absolute.

- (2) Where such application is made and allowed, as provided in rule 83, the deposit required by that rule is made within thirty days from the date of sale, the Court shall make an order setting aside the sale.

Provided that no order shall be made unless notice of the application has been given to all persons affected thereby.

- (3) No writ to set aside an order made under this rule shall be brought by any person against whom such order is made.

Where a sale of immovable property is set aside under rule 92, the purchaser shall be entitled to an order for repayment of the purchase money, with or without interest as the Court may direct, against any person to whom it has been paid.

34. Where a sale of immoveable property has become absolute, the Court shall grant a certificate specifying the property sold and the name of the person who at the time of sale is declared to be the purchaser. Such certificate shall bear date the day on which the sale became absolute.

35. Where the immoveable property sold is in the occupancy of the judgment-debtor or of some person on his behalf or of some person claiming under a title created by

of the purchaser, order delivery to be made by putting such purchaser, or any person whom he may appoint to receive delivery on his behalf in possession of the property, and, if need be, by removing any person who refuses to vacate the same.

36. Where the property sold is in the occupancy of a tenant or other person entitled to occupy the same and a certificate in respect thereof has been granted under rule 34, the Court shall on the application of the purchaser, order delivery to be made by affixing a copy of the certificate of sale in some conspicuous place on the property, and proclaiming to the occupant by beat of drum or other customary mode, at some convenient place, that the interest of the judgment-debtor has been transferred to the purchaser.

Resistance to delivery of possession to decree-holder or purchaser.

37. (1) Where the holder of a decree for the possession of immoveable property or the purchaser of any such property sold in execution of a decree is resisted or obstructed by any person in obtaining possession of the

shall direct that the applicant be put into possession of the property.

102. Nothing in rules 99 and 101 shall apply to resistance or obstruction in execution of a decree for the possession of immovable property by a person to whom the judgment-debtor has transferred the property after the institution of the suit in which the decree was passed or to the dispossession of any such person.

Rules not applicable to transfers *in rem*.

103. Any party not being a judgment-debtor against whom an order is made under rule 98, rule 99 or rule 101 may institute a suit to establish the right which he claims to the present possession of the property; but, subject to the result of such suit, if any, the order shall be conclusive.

Orders conclusive subject to regular suit.

ORDER XXII.

Death, Marriage and Insolvency of Parties.

1. The death of a plaintiff or defendant shall not cause the suit to abate if the right to sue survives.

No statement by party as to death, if right to sue survives.

2. Where there are more plaintiffs or defendants than one, and any of them dies, and where the right to sue survives to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone the Court shall cause an entry to that effect to be made on the record, and the suit shall proceed.

Procedure where one of several plaintiffs or defendants dies and right to sue survives.

Procedure where one of several plaintiffs or defendants dies and right to sue survives.

right to sue does not survive to the surviving plaintiff or plaintiffs alone, or a sole plaintiff or sole surviving plaintiff

have the same force and effect as if it had been pronounced before the death took place.

7. (1) The marriage of a female plaintiff or defendant shall not cause the suit to abate, but the suit may notwithstanding be proceeded with to judgment, and, where the decree is against a female defendant, it may be executed against her alone.

(2) Where the husband is by law liable for the debts of his wife, the decree may, with the permission of the Court, be executed against the husband also; and, in case of judgment for the wife, execution of the decree may, with such permission, be issued upon the application of the husband, where the husband is by law entitled to the subject-matter of the decree.

8. (1) The insolvency of a plaintiff in any suit which the assignee or receiver might maintain for the benefit of his creditors, shall not cause the suit to abate, unless such assignee or receiver declines to continue the suit or (unless for any special reason the Court otherwise directs) to give security for the costs thereof within such time as the Court may direct.

(2) Where the assignee or receiver neglects or refuses to continue the suit and to give such security within the time so ordered, the defendant may apply for the dismissal of the suit on the ground of the plaintiff's insolvency, and the Court may make an order dismissing the suit and awarding to the defendant the costs which he has incurred in defending the same to be proved as a debt against the plaintiff's estate.

9 (1) Where a suit abates or is dismissed under this Order, no fresh suit shall be brought on the same cause of action.

(2) Where the Court is satisfied—

(a) that a suit must fail by reason of some formal defect, or

(b) that there are other sufficient grounds for allowing the plaintiff to institute a fresh suit for the subject-matter of a suit or part of a claim,

it may, on such terms as it thinks fit, grant the plaintiff permission to withdraw from such suit or abandon such part of a claim with liberty to institute a fresh suit in respect of the subject-matter of such suit or such part of a claim.

(3) Where the plaintiff withdraws from a suit, or abandons part of a claim, without the permission referred to in sub-rule (2), he shall be liable for such costs as the Court may award and shall be precluded from instituting any fresh suit in respect of such subject-matter or such part of the claim.

(4) Nothing in this rule shall be deemed to authorize the Court to permit one of several plaintiffs to withdraw without the consent of the others.

2. In any fresh suit instituted on permission granted under the last preceding rule, the plaintiff shall be bound by the law of limitation in the same manner as if the first suit had not been instituted.

3. Where it is proved to the satisfaction of the Court that a suit has been adjusted wholly or in part by any lawful agreement or compromise, or where the defendant satisfies the plaintiff in respect of the whole or any part of the subject-matter of the suit, the Court may, on such terms as it thinks fit, make such order as it may think fit in relation to the costs of the suit.

4. Nothing in this Order shall apply to any proceedings in execution of a decree or order.

ORDER XXIV.

Payment into Court.

1. The defendant in any suit to recover a debt or damages may, at any stage of the suit, deposit in Court such sum of money as he considers a satisfaction in full of the claim.

Deposit by defendant of amount in satisfaction of claim.

2. Notice of the deposit shall be given through the Court by the defendant to the plaintiff, deposit shall (un- to the plaintiff on

Notice to plaintiff

3. No interest shall be allowed to the plaintiff on any sum deposited by the defendant from the date of the receipt of such notice, whether the sum deposited is in full of the claim or falls short thereof.

Interest on deposit not allowed to plaintiff after notice.

4. (1) Where the plaintiff accepts such amount as

Proceeds plaintiff sit as a party.

sit by claim,

after the deposit and the costs incurred previous thereto so far as they were caused by excess in the plaintiff's claim.

(2) Where the plaintiff accepts such amount as satisfaction in full of his claim, he shall present to the Court a statement to that effect, and such statement shall be filed

Procedure where he accepts it as satisfaction in full.

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ment, accordingly; each party are to which of the parties is

Illustrations.

(a) A owes B Rs. 100. B sues A for the amount, having made no demand for payment and having no reason to believe that the delay caused by making a demand would place him at a disadvantage. On the plaint being filed, A pays the money into Court. B accepts it in full satisfaction of his claim, but the Court should not allow him any costs, the litigation being presumably groundless on his part.

(b) B sues A under the circumstances mentioned in illustration (a). On the plaint being filed, A disputes the claim. Afterwards A pays the money into Court. B accepts it in full satisfaction of his claim. The Court should also give B his costs of suits, A's conduct having shown that the litigation was necessary.

(c) A owes B Rs. 100, and is willing to pay him that sum without suit. B claims Rs. 150 and sues A for that amount. On the plaint being filed A pays Rs. 100 into Court and disputes only his liability to pay the remaining Rs. 50. B accepts the Rs. 100 in full satisfaction of his claim. The Court should order him to pay A's costs.

1. (1) appears to the
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When security
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 from plaintiff

British
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able property within British India other than the property in suit, the Court may, either of its own motion or on the application of any defendant, order the plaintiff or plaintiffs, within a time fixed by it, to give security

for the payment of all costs incurred and likely to be incurred by any defendant.

(2) Whoever leaves British India under such circumstances as to afford reasonable probability that he will not be forthcoming whenever he may be called upon to pay costs shall be deemed to be residing out of British India within the meaning of sub-rule (1).

(3) On the application of any defendant in a suit for the payment of money, in which the plaintiff is a witness, the Court may make an order that the defendant does not possess property in British India.

2. (1) In the event of such security not being furnished within the time fixed, the Court shall make an order dismissing the suit unless the plaintiff or plaintiffs are permitted to withdraw therefrom.

(2) Where a suit is dismissed under this rule, the plaintiff may apply for an order to set the dismissal aside, and if it is proved to the satisfaction of the Court that he was prevented by any sufficient cause from furnishing the security within the time allowed, the Court shall set aside the dismissal upon such terms as to security, costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit.

(3) The dismissal shall not be set aside unless notice of such application has been served on the defendant.

ORDER XXVI

Commissions.

Commissions to examine witnesses.

1. Any Court may in any suit issue a commission for the examination on interrogatories or otherwise of any person resident within the local limits of its jurisdiction who is

(Court in which Court may issue commission to examine witness.)

exempted under this Code from attending the Court or who is from sickness or infirmity unable to attend it.

2. An order for the issue of a commission for the examination of a witness may be made by the Court either of its own motion or on the application, supported by affidavit or otherwise, of any party to the suit or of the witness to be examined.

3. A commission for the examination of a person who resides within the local limits of the jurisdiction of the Court issuing the same may be issued to any person whom the Court thinks fit to execute.

4. (1) Any Court may in any suit issue a commission for the examination of—

(a) any person resident beyond the local limits of its jurisdiction :

(b) any person who is about to leave such limits before the date on which he is required to be examined in Court ; and

(c) any civil or military officer of the Government who cannot, in the opinion of the Court, attend without detriment to the public service.

(2) Such commission may be issued to any Court, not being a High Court, within the local limits of whose jurisdiction such person resides, or to any pleader or other person whom the Court issuing the commission may appoint.

(3) The Court on issuing any commission under this rule shall direct whether the commission shall be returned to itself or to any subordinate Court.

5. Where any Court to which application is made for the issue of a commission for the examination of a person residing at any place not within British India is satisfied

that the evidence of such person is necessary, the Court may issue such commission or a letter of request.

6. Every Court receiving a commission for the examination of any person shall examine him or cause him to be examined pursuant thereto.

7. Where a commission has been duly executed, it shall be returned, together with the evidence taken under it, to the Court from which it was issued, unless the order for issuing the commission has otherwise directed, in which case the commission shall be returned in terms of such order; and the commission and the return thereto and the evidence taken under it shall (subject to the provisions of the next following rule) form part of the record of the suit.

8. Evidence taken under a commission shall not be read as evidence in the suit without the consent of the party against whom the same is offered, unless—

(a) the person who gave the evidence is beyond the jurisdiction of the Court, or dead or unable from sickness or infirmity to attend to be personally examined, or exempted from personal appearance in Court, or is a civil or military officer of the Government who cannot, in the opinion of the Court, attend without detriment to the public service, or

(b) the Court in its discretion dispenses with the proof of any of the circumstances mentioned in clause (a), and authorizes the evidence of any person being read as evidence in the suit, notwithstanding proof that the cause for taking such evidence by commission has ceased at the time of reading the same.

Commissions for local investigations.

9. In any suit in which the Court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, or of ascertaining the market-value of any property, or the amount of any mesne profits or damages or annual net profits, the Court may issue a commission to such person as it thinks fit directing him to make such investigation and to report thereon to the Court :

Provided that, where the Local Government has made rules as to the persons to whom such commission shall be issued, the Court shall be bound by such rules.

10. (1) The Commissioner, after such local inspection as he deems necessary and after reducing to writing the evidence taken by him, shall return such evidence, together with his report in writing signed by him, to the Court.

(2) The report of the Commissioner and the evidence taken by him (but not the evidence without the report) shall be evidence in the suit and shall form part of the record ; but the Court or, with the permission of the Court, any of the parties to the suit, may examine the Commissioner personally in open Court touching any matter referred to him or mentioned in his report or as to the manner of his proceedings.

(3) Where the Court is for any reason dissatisfied with the proceedings of the Commissioner, it may direct such further inquiry to be made as it shall think fit.

Commissions to examine accounts.

11. In any suit in which an examination or adjustment of accounts is necessary, the Court may issue a commission to such person

as it thinks fit directing him to make such examination or adjustment.

12. (1) The Court shall furnish the Commissioner with such part of the proceedings and such instructions as appear necessary, and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the inquiry, or also to report his own opinion on the point referred for his examination.

(2) The proceedings and report (if any) of the Commissioner shall be evidence in the suit, but where the Court has reason to be dissatisfied with them, it may direct such further inquiry as it shall think fit.

Commissions to make partitions.

13. Where a preliminary decree for partition has been passed, the Court may, in any case not provided for by section 54, issue a commission to such person as it thinks fit to make the partition or separation according to the rights as declared in such decree.

14. (1) The Commissioner shall, after such inquiry as may be necessary, divide the property into as many shares as may be directed by the order under which the commission was issued, and shall allot such shares to the parties, and may, if authorized thereto by the said order, award sums to be paid for the purpose of equalizing the value of the shares.

(2) The Commissioner shall then prepare and sign a report or the Commissioners (where the commission was issued to more than one person and they cannot agree) shall prepare and sign separate reports appointing the share of each party and distinguishing each share (if so directed by the said order) by metes and bounds. Such report or

reports shall be annexed to the commission and transmitted to the Court; and the Court, after hearing any objections which the parties may make to the report or reports, shall confirm, vary or set aside the same.

(3) Where the Court confirms or varies the report or reports it shall pass a decree in accordance with the same as confirmed or varied; but where the Court sets aside the report or reports it shall either issue a new commission or make such other order as it shall think fit.

General provisions.

15. Before issuing any commission under this Order, the Court may order such sum (if any) as it thinks reasonable for the expenses of the commission to be, within a time to be fixed, paid into Court by the party at whose instance or for whose benefit the commission is issued.

16. Any Commissioner appointed under this Order may, unless otherwise directed by the order of appointment—

(a) examine the parties themselves and any witness whom they or any of them may produce, and any other person whom the Commissioner thinks proper to call upon to give evidence in the matter referred to him;

(b) call for and examine documents and other things relevant to the subject of inquiry;

(c) at any reasonable time enter upon or into any land or building mentioned in the order.

17. (1) The following provisions—

Attendance and examination of witnesses before Commissioner.

and penalties to be imposed upon, witnesses, shall apply to persons required to give evidence or to produce documents under this Order whether the commission in execution of which they are

3. In suits by or against the Secretary of State for India in Council, instead of inserting in the plaint the name and description and place of residence of the plaintiff or defendant, it shall be sufficient to insert the words "The Secretary of State for India in Council."

4. The Government pleader in any Court, or such other person as the Local Government may for any Court appoint in this behalf, shall be the agent of the Government for the purpose of receiving processes against the Secretary of State for India in Council issued by such Court.

5. The Court, in fixing the day for the Secretary of State for India in Council to answer to the plaint shall allow a reasonable time for the necessary communication with the Government through the proper channel, and for the issue of instructions to the Government pleader to appear and answer on behalf of the said Secretary of State for India in Council or the Government, and may extend the time at its discretion.

6. The Court may also, in any case in which the Government pleader is not accompanied by any person on the part of the Secretary of State for India in Council, who may be able to answer any material questions relating to the suit, direct the attendance of such a person.

7. Where the defendant is a public officer and, on receiving the summons, considers it proper to make a reference to the Government before answering the plaint, he may apply to the Court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channel.

(3) When so filed the countersignature shall be sufficient proof that the authority was duly executed, and that the officer or soldier by whom it was granted could not obtain leave of absence for the purpose of prosecuting or defending the suit in person.

Explanation—In this Order the expression “command-
command for the
attachment of dépôt

2. Any person authorized by an officer or a soldier to prosecute or defend a suit in his stead Person so authorized may act personally or appoint pleader may prosecute or defend it in person in the same manner as the officer or soldier could do if present: or he may appoint a pleader to prosecute or defend the suit on behalf of such officer or soldier.

3. Processes served upon any person authorized by an officer or a soldier under rule 1 Person so authorized, or on his pleader, to be good service or upon any pleader appointed as aforesaid by such person shall be as effectual as if they had been served on the party in person.

ORDER XXIX.

Suits by or against Corporations.

1. In suits by or against a corporation, any pleading Signature and verification of pleading. may be signed and verified on behalf of the corporation by the secretary or by any director or other principal officer of the corporation who is able to depose to the facts of the case.

2. Subject to any statutory provision regulating Service on corporations. service of process, where the suit is against a corporation, the summons may be served—

(a) on the secretary, or on any director, or other principal officer of the corporation, or

persons constituting the firm on whose behalf the suit is instituted.

(2) Where the plaintiffs or their pleader fail to comply with any demand made under sub-rule (1), all proceedings in the suit may, upon an application for that purpose, be stayed upon such terms as the Court may direct.

(3) Where the names of the partners are declared in the manner referred to in sub-rule (1), the suit shall proceed in the same manner, and the same consequences in all respects shall follow, as if they had been named as plaintiffs in the plaint:

Provided that all the proceedings shall nevertheless continue in the name of the firm.

3. Where persons are sued as partners in the name of their firm, the summons shall be served either—

Service,

(a) upon any one or more of the partners, or

(b) at the principal place at which the partnership business is carried on within British India upon any person having, at the time of service, the control or management of the partnership business there,

as the Court may direct; and such service shall be deemed good service upon the firm so sued, whether all or any of the partners are within or without British India:

Provided that, in the case of a partnership which has been dissolved to the knowledge of the plaintiff before the institution of the suit, the summons shall be served upon every person within British India whom it is sought to make liable.

1. (1) Notwithstanding anything contained in section 45 of the Indian Contract Act, 1872, (IX of 1872), where two or more persons may sue or be sued in the name of a firm under the foregoing

Right of suit on death of partner.

provisions and any of such persons dies, whether before the institution or during the pendency of any suit, it shall not be necessary to join the legal representative of the deceased as a party to the suit.

(2) Nothing in sub-rule (1) shall limit or otherwise affect any right which the legal representative of the deceased may have—

(a) to apply to be made a party to the suit, or

(b) to enforce any claim against the survivor or survivors.

5. Where a summons is issued to a firm and is served in the manner provided by rule 3, every person upon whom it is served shall be informed by notice in writing given at the time of such service, whether he is served as a partner or as a person having the control or management of the partnership business, or in both characters, and, in default of such notice, the person served shall be deemed to be served as a partner.

6. Where persons are sued as partners in the name of their firm, they shall appear individually in their own names, but all subsequent proceedings shall, nevertheless, continue in the name of the firm.

7. Where a summons is served in the manner provided by rule 3 upon a person having the control or management of the partnership business, no appearance by him shall be necessary unless he is a partner of the firm sued.

8. Any person served with summons as a partner under rule 3 may appear under protest, denying that he is a partner, but such appearance shall not preclude the plaintiff from otherwise serving a summons on the firm and obtaining a decree against the firm in default of appearance where no partner has appeared.

9. This Order shall apply to suits between a firm and one or more of the partners therein and to suits between firms having one or more partners in common; but no execution shall be made in such suits except by leave of the Court, and, on an application for leave to issue such execution, all the accounts and inquiries may be directed to be taken and made and directions given as may be just.

10. Any person carrying on business in a name or style other than his own name may be sued in such name or style as if it were a firm name; and, so far as the nature of a case will permit, all rules under this Order shall apply.

ORDER XXXI.

Suits by or against Trustees, Executors and Administrators.

1. In all suits concerning property vested in a trustee, executor or administrator, where the contention is between the persons beneficially interested in such property and a third person, the trustee, executor or administrator shall represent the persons so interested, and it shall not ordinarily be necessary to make them parties to the suit. But the Court may, if it thinks fit, order them or any of them to be made parties.

2. Where there are several trustees, executors or administrators, they shall all be made parties to a suit against one or more of them:

Provided that the executors who have not proved their testator's will, and trustees, executors and administrators outside British India, need not be made parties.

3. Unless the Court directs otherwise, the husband of a married trustee, administratrix or executrix shall not as such be a party to a suit by or against her.

(2) Every order made in a suit or on any application before the Court in or by which a minor is in any way concerned or affected, without such minor being represented by a next friend or guardian for the suit, as the case may be, may be discharged, and, where the pleader of the party at whose instance such order was obtained knew, or might reasonably have known, the fact of such minority, with costs to be paid by such pleader.

6. (1) A next friend or guardian for the suit shall not, without the leave of the Court receive any money or other moveable property on behalf of a minor either—

Receipt by next friend or guardian for the suit of property under decree for minor

(a) by way of compromise before decree or order, or

(b) under a decree or order in favour of the minor.

(2) Where the next friend or guardian for the suit has not been appointed or declared by competent authority to be guardian of the property of the minor, or, having been so appointed or declared, is under any disability known to the Court to receive the money or other moveable property, the Court shall, if it grants him leave to receive the property, require such security and give such directions as will, in its opinion, sufficiently protect the property from waste and ensure its proper application.

7. (1) No next friend or guardian for the suit shall without the leave of the Court, expressly recorded in the proceedings, enter into any agreement or compromise on behalf of a minor with reference to the suit in which he acts as next friend or guardian.

Agreement or compromise by next friend or guardian for the suit.

(2) Any such agreement or compromise entered into without the leave of the Court so recorded shall be voidable against all parties other than the minor.

8. (1) Unless otherwise ordered by the Court a next friend shall not retire without first procuring a fit person to be put in his place and giving security for the costs already incurred.

Retirement of next friend.

(2) The application for the appointment of a new next friend shall be supported by an affidavit showing the fitness of the person proposed, and also that he has no interest adverse to that of the minor.

9. (1) Where the interest of the next friend of a minor or of the minor or with a defendant minor as to the suit will be properly protected by him, or where he does not do his duty, or during the pendency of the suit, ceases to reside within British India, or for any other sufficient cause, application may be made on behalf of the minor or by a defendant for his removal; and the Court, if satisfied of the efficiency of the cause assigned, may order the next friend to be removed accordingly, and make such other order as to costs as it thinks fit.

(2) Where the next friend is not a guardian appointed or declared by an authority competent in this behalf, and in application is declared, of the next friend, unless it considers, for reasons to be recorded by it, that the guardian ought not to be appointed the next friend of the minor, and shall thereupon appoint the applicant to be next friend in his place upon such terms as to the costs already incurred in the suit as it thinks fit.

10. (1) On the retirement, removal or death of the next friend of a minor, further proceedings shall be stayed until the appointment of a next friend in his place.

(2) Where the pleader of such minor omits, within a reasonable time, to take steps to get a new next friend appointed, any person interested in the minor or in the matter in issue may apply to the Court for the appoint-

ment of one, and the Court may appoint such person as it thinks fit.

11. (1) Where the guardian for the suit desires to retire or does not do his duty, or where other sufficient ground is made to appear the Court may permit such guardian to retire or may remove him, and may make such order as to costs as it thinks fit.

(2) Where the guardian for the suit retires, dies or is removed by the Court during the pendency of the suit, the Court shall appoint a new guardian in his place.

12. (1) A minor plaintiff or a minor not a party to a suit on whose behalf an application is pending shall, on attaining majority, elect whether he will proceed with the suit or application.

(2) Where he elects to proceed with the suit or application, he shall apply for an order discharging the next friend and for leave to proceed in his own name.

(3) The title of the suit or application shall in such case be corrected so as to read thenceforth thus:—

“A. B., late a minor, by C. D., his next friend, but now having attained majority.”

(4) Where he elects to abandon the suit or application, he shall, if a sole plaintiff or sole applicant, apply for an order to dismiss the suit or application on repayment of the costs incurred by the defendant or opposite party or which may have been paid by his next friend.

(5) Any application under this rule may be made *ex parte*: but no order discharging a next friend and permitting a minor plaintiff to proceed in his own name shall be made without notice to the next friend.

13. (1) Where a minor co-plaintiff on attaining majority desires to repudiate the suit, he shall apply to have his name struck out as co-plaintiff; and the Court, if it finds

Where minor co-plaintiff attaining majority desires to repudiate suit

at he is not a necessary party, shall dismiss him from the
it on such terms as to costs or otherwise as it thinks fit.

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(4) Where the applicant is a necessary party to the
it, the Court may direct him to be made a defendant.

14. (1) A . . . , if a sole
Unreasonable
proper suit, . . . constituted in
dismissed
on the ground that it was unreasonable or improper.

(2) Notice of the application shall be served on all
parties concerned; and the Court, upon being satisfied
of such unreasonableness or impropriety, may grant the
application and order the next friend to pay the costs of
all parties in respect of the application and of anything
done in the suit, or make such other order as it thinks fit.

15. The provisions contained in rules 1 to 14, so far as
they are applicable, shall extend to per-
Application of rules
of persons of unsound
mind sons adjudged to be of unsound mind
and to persons who though not so ad-
judged are found by the Court on inquiry, by reason of
unsoundness of mind or mental infirmity, to be incapable
of protecting their interests when suing or being sued.

16. Nothing in this Order shall apply to a Sovereign
ing or being
state, or being
Council or a
or in any
other name, or shall be construed to affect or in any
way derogate from the provision of any local law for
the time being in force relating to suits by or against
minors or by or against lunatics or other persons of un-
sound mind.

ORDER XXXIII.

Suits by Paupers.

Suits may be instituted, in forma pauperis.

1. Subject to the following provisions, any suit may be instituted by a pauper.

no such fee is prescribed, when he is not entitled to property worth one hundred rupees other than his necessary wearing-apparel and the subject-matter of the suit.

2. Every application for permission to sue as a pauper shall contain the particulars required in Contents of application, rega any moveable or im applicant, with the annexed thereto; and in manner prescribed for the signing and verification of pleadings.

3. Notwithstanding anything contained in these rules, the application shall be presented to the Court by the applicant in person, unless he is exempted from appearing, be presented in the same manner as the party represented by him might have been, examined had such party attended in person.

4. (1) Where the application is in proper form and duly presented, the Court may, if it thinks fit, examine the applicant, or his agent, when the applicant is, allowed to appear by agent, regarding the merits of the claim and the property of the applicant.

- (2) Where the application is presented by an agent, the Court may, if it thinks fit, order that the applicant be examined by a commission in the manner in which the examination of an absent witness may be

If presented by agent,
Court may order ap-
plicant to be examined
by commission.

taken.

5. The Court shall reject an application for permission to sue as a pauper—

Rejection of applica-
tion.

- (a) where it is not framed and presented in the manner prescribed by rules 2 and 3, or
- (b) where the applicant is not a pauper, or
- (c) where he has, within two months next before the presentation of the application, disposed of any property fraudulently or in order to be able to apply for permission to sue as a pauper, or
- (d) where his allegations do not show a cause of action, or
- (e) where he has entered into any agreement with reference to the subject-matter of the proposed suit under which any other person has obtained an interest in such subject-matter.

6. Where the Court sees no reason to reject the application on any of the grounds stated in rule 5, it shall fix a day (of which at least ten days' clear notice shall be given to the opposite party and the Government pleader) for receiving such evidence as the applicant may adduce in proof of his pauperism, and for hearing any evidence which may be adduced in disproof thereof.

Notice of day for
receiving evidence of
applicant's pauperism.

7. (1) On the day so fixed or as soon thereafter as may be convenient, the Court shall examine the witnesses (if any) produced by either party, and may examine the applicant or his agent, and shall make a memorandum of the substance of their evidence.

Procedure at hear-
ing.

(2) The Court shall also hear any argument which the parties may desire to offer on the question whether, on the face of the application and of the evidence (if any) taken by the Court as herein provided, the applicant is or is not subject to any of the prohibitions specified in rule 5.

(3) The Court shall then either allow or refuse to allow the applicant to sue as a pauper.

8. Where the application is granted, it shall be numbered and registered; and shall be Procedure if application admitted dear and the suit shall proceed in all the ordinary manner, liable to pay any court-fee (other than fees payable for service of process) in respect of any petition, appointment of a pleader or other proceeding connected with the suit.

9. The Court may, on the application of the defendant, or of the Government pleader, of Dispaupering. which seven days' clear notice in writing has been given to the plaintiff, order the plaintiff to be dispaupered—

(a) if he is guilty of vexatious or improper conduct in the course of the suit ;

(b) if it appears that his means are such, that he ought not to continue to sue as a pauper ; or

(c) if he has entered into any agreement with reference to the subject-matter of the suit, under which any other person has obtained an interest in such subject-matter.

10. Where the plaintiff succeeds in the suit, the costs where pauper succeeds. Court shall calculate the amount of court-fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper ; such amount shall be recoverable by the Govern-

ment from any party ordered by the decree to pay the same, and shall be a first charge on the subject-matter of the suit.

11. Where the plaintiff fails in the suit or is dis-
Procedure where pauper fails. paupered, or where the suit is withdrawn or dismissed,—

(a) because the summons for the defendant to appear and answer has not been served upon him in consequence of the failure of the plaintiff to pay the court-fee or postal charges (if any) chargeable for such service, or

(b) because the plaintiff does not appear when the suit is called on for hearing,

the Court shall order the plaintiff, or any person added as a co-plaintiff to the suit, to pay the court-fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper.

12. The Government shall have the right at any time
Government may apply for payment of court-fees. to apply the Court to make an order for the payment of court-fees under rule 10 or rule 11.

13. All matters arising between the Government and
Government to be deemed a party. any party to the suit under rule 10, rule 11 or rule 12 shall be deemed to be questions arising between the parties to the suit within the meaning of section 47.

14. Where an order is made under rule 10, rule 11
Copy of decree to be sent to Collector. or rule 12, the Court shall forthwith cause a copy of the decree to be forwarded to the Collector.

15. An order refusing to allow the applicant to sue
Refusal to allow applicant to sue as pauper to bar subsequent application of like nature. as a pauper shall be a bar to any subsequent application of the like nature by him in respect of the same right to sue : but the applicant shall be at liberty to

ing his application for leave to sue as a pauper.

16. The costs of an application for permission to sue as a pauper and of an inquiry into pauperism shall be costs in the suit.

Costs.

ORDER XXXIV.

Suits relating to Mortgages of Immoveable Property.

1. Subject to the provisions of this Code, all persons having an interest either in the mortgage-security or in the right of redemption shall be joined as parties to any suit relating to the mortgage.

Parties to suits for foreclosure, sale and redemption.

Explanation.—A puisne mortgagee may sue for foreclosure or for sale without making the prior mortgagee a party to the suit; and a prior mortgagee need not be joined in a suit to redeem a subsequent mortgage.

2. In a suit for foreclosure, if the plaintiff succeeds, the Court shall pass a decree—

Preliminary decree in foreclosure-suit.

(a) ordering that an account be taken of what will be due to the plaintiff for principal and interest on the mortgage, and for his costs of the suit (if any) awarded to him on the day next hereinafter referred to, or

(b) declaring the amount so due at the date of such decree, and directing—

(c) that if the defendant pays into Court the amount so due on a day within six months from the date of declaring in Court the amount so due to be fixed by the Court, the plaintiff shall deliver up to the defendant, or to such person

as he appoints, all documents in his possession or power relating to the mortgaged property, and shall, if so required, re-transfer the property to the defendant free from the mortgage and from all incumbrances created by the plaintiff or any person claiming under him, or, where the plaintiff claims by derived title, by those under whom he claims, and shall also, if necessary, put the defendant in possession of the property, but

(d) that, if such payment is not made on or before the day to be fixed by the Court, the defendant shall be debarred from all right to redeem the property

3. (1) Where, on or before the day fixed, the defendant pays into Court the amount declared due as aforesaid, together with such subsequent costs as are mentioned in rule 10, the Court shall pass a decree—

(a) ordering the plaintiff to deliver up the documents which under the terms of the preliminary decree he is bound to deliver up, and, if so required,

(b) ordering him to retransfer the mortgaged property as directed in the said decree, and, also, if necessary,

(c) ordering him to put the defendant in possession of the property.

(2) Where such payment is not so made, the Court shall, on application made in that behalf by the plaintiff, pass a decree that the defendant and all persons claiming through or under him be debarred from all right to redeem the mortgaged property and also, if necessary, ordering the defendant to put the plaintiff in possession of the property :

Provided that the Court may, upon good cause shown
Power to enlarge time. and upon such terms (if any) as it thinks fit from time to time postpone the day fixed for such payment.

(3) On the passing of a decree under sub-rule (2) the
Discharge of debt. debt secured by the mortgage shall be deemed to be discharged.

4. (1) In a suit for sale, if the plaintiff succeeds the
 Court shall pass a decree to the effect

to receive the same.

(2) In a suit for foreclosure, if the plaintiff succeeds
Power to decree sale in foreclosure-suit. and the mortgage is not a mortgage by conditional sale, the Court may, at the instance of the plaintiff or of any person interested either in the mortgage-money or in the right of redemption, pass a like decree (in lieu of a decree for foreclosure) on such terms as it thinks fit including the deposit in Court of a reasonable sum, fixed by the Court, to meet the expenses of sale and to secure the performance of the terms

5. (1) Where on or before the day fixed the defendant pays into Court the amount declared
Final decree in suit for sale. due as aforesaid, together with such subsequent costs as are mentioned in rule 10, the Court shall pass a decree—

(a) ordering the plaintiff to deliver up the documents which under the terms of the preliminary decree he is bound to deliver up, and if so required,

- (b) ordering him to retransfer the mortgaged property as directed in the said decree, and also, if necessary,
- (c) ordering him to put the defendant in possession of the property.

(2) Where such payment is not so made, the Court shall, on application made in that behalf by the plaintiff, pass a decree that the mortgaged property, or a sufficient part thereof, be sold, and that the proceeds of the sale be dealt with as is mentioned in rule 4.

6. Where the net proceeds of any such sale are found to be insufficient to pay the amount due to the plaintiff, if the balance is legally recoverable from the defendant otherwise than out of the property sold, the Court may pass a decree for such amount.

Recovery of balance due on mortgage.

7. In a suit for redemption, if the plaintiff succeeds, the Court shall pass a decree—

Preliminary decree in redemption suit.

- (a) ordering that an account be taken of what will be due to the defendant for principal and interest on the mortgage, and for his costs of the suit (if any) awarded to him on the day next hereinafter referred to, or
- (b) declaring the amount so due at the date of such decree, and directing—
- (c) that, if the plaintiff pays into Court the amount so due on a day within six months from the date of declaring in Court the amount so due, to be fixed by the Court, the defendant shall deliver up to the plaintiff, or to such person as he appoints, all documents in his possession or power relating to the mortgaged property, and shall, if so required, re-transfer the property to the plaintiff free from the mortgage

and from all incumbrances created by the defendant or any person claiming under him, or, where the defendant claims by derived title, by those under whom he claims, and shall, if necessary, put the plaintiff in possession of the property, but

(d) that, if such payment is not made on or before the day to be fixed by the Court, the plaintiff shall (unless the mortgage is simple or usufructuary) (redemption sale)

8. (1) Where, on or before the day fixed, the plaintiff pays into Court the amount declared due as aforesaid, together with such subsequent costs as are mentioned in rule 10, the Court shall pass a decree—

(a) ordering the defendant to deliver up the documents which under the terms of the preliminary decree he is bound to deliver up, and, if so required,

(b) ordering him to retransfer the mortgaged property as directed in the said decree, and, also, if necessary,

(c) ordering him to put the plaintiff in possession of the property.

(2) Where the Court passes a decree in the

a decree that the plaintiff and all persons claiming through or under him be debarred from all right to redeem the mortgaged property and also, if necessary, ordering the plaintiff to put the defendant in possession of the property.

(3) On the passing of a decree under sub-rule (2) the debt secured by the mortgage shall be deemed to be discharged.

(4) Where such payment is not so made, and the mortgage is not by conditional sale, the Court shall, on application made in that behalf by the defendant, pass a decree that the mortgaged property or a sufficient part thereof be sold and that the proceeds of the sale (after defraying thereout the expenses of the sale) be paid into Court and applied in payment of what is found due to the defendant, and that the balance (if any) be paid to the plaintiff or other persons entitled to receive the same:

Provided that the Court may, upon good cause shown and upon such terms (if any) as it thinks fit, from time to time postpone the day fixed for payment.

9. Notwithstanding anything hereinbefore contained, if it appears, upon taking the account referred to in rule 7, that nothing is due to the defendant or that he has been overpaid, the Court shall pass a decree directing the defendant, if so required, to re-transfer the property and to pay to the plaintiff the amount which may be found due to him; and the plaintiff shall, if necessary, be put in possession of the mortgaged property.

10. In finally adjusting the amount to be paid to a mortgagee in case of a foreclosure or sale or redemption, the Court shall, unless the conduct of the mortgagee has been such as to disentitle him to costs add to the mortgage-money such costs of suit as have been properly incurred by him since the decree for foreclosure or sale or redemption up to the time of actual payment.

11. Where property is mortgaged for successive debts to successive mortgagees, any mesne mortgagee may institute a suit to redeem the interests of the prior mort-

gagees and to foreclose the rights of those that are posterior to himself and of the mortgagor.

12. Where any property the sale of which is directed under this Order is subject to a prior mortgage, the Court may, with the consent of the prior mortgagee, direct that the property be sold free from the same, giving to such prior mortgagee the same interest in the proceeds of the sale as he had in the property sold.

13. (1) Such proceeds shall be brought into Court and applied as follows :—

Application of proceeds.

first, in payment of all expenses incident to the sale or properly incurred in any attempted sale ;
secondly, in payment of whatever is due to the prior mortgagee on account of the prior mortgage and of costs, properly incurred in connection therewith ;

thirdly, in payment of all interest due on account of the sale of the property of the sale was made in a suit in which the property was sold ;
fourthly, in payment of the principal money due on account of that mortgage ; and

lastly, the residue (if any) shall be paid to the person proving himself to be interested in the property sold, or if there are more such persons than one, then to such persons according to their respective interests therein or upon their joint receipt.

(2) Nothing in this rule or in rule 12 shall be deemed to affect the powers conferred by section 57 of the Transfer of Property Act, 1882, IV of 1882.)

14. (1) Where a mortgagee has obtained a decree for the payment of money in satisfaction of a claim arising under the mortgage, he shall not be entitled to bring the property to sale.

but for sale necessary for bringing mortgaged property to sale.

charge property to sale otherwise than by instituting a suit for sale in enforcement of the mortgage, and he may institute such suit notwithstanding anything contained in Order II, rule 2.

(2) Nothing in sub-rule (1) shall apply to any territories to which the Transfer of Property Act, 1882, (IV of 1882), has not been extended.

15. All the provisions contained in this Order as to the sale or redemption of mortgaged property shall, so far as may be, apply to property subject to a charge within the meaning of section 100 of the Transfer of Property Act, 1882, (IV of 1882.)

ORDER XXXV.

Interpleader.

1. In every suit of interpleader the plaintiff shall, in addition to the other statements necessary for plaints, state—

(a) that the plaintiff claims no interest in the subject-matter in dispute other than for charges or costs ;

(b) the claims made by the defendants severally ; and

(c) that there is no collusion between the plaintiff and any of the defendants.

2. Where the thing claimed is capable of being paid into Court or placed in the custody of the Court, the plaintiff may be required to so pay or place it before he can be entitled to any order in the suit.

3. Where any of the defendants in an interpleader-suit is actually suing the plaintiff in respect of the subject-matter of such suit, the Court in which the suit against the plaintiff is pending shall, on being informed by the Court in which the interpleader-suit has been instituted,

stay the proceedings as against him; and his costs in suit so stayed may be provided for in such suit; but if, in so far as, they are not provided for in that suit, they may be added to his costs incurred in the interpleader.

Procedure at first hearing. (1) At the first hearing the Court may—

- (a) declare that the plaintiff is discharged from liability to the defendants in respect of thing claimed, award him his costs, and dismiss him from the suit; or
- (b) if it thinks that justice or convenience so require, retain all parties until the final disposal of the suit.

(2) Where the Court finds that the admissions of the parties or other evidence enable it to do so, it may adjudicate the title to the thing claimed.

(3) Where the admissions of the parties do not enable the Court to adjudicate, it may direct—

- (a) that an issue or issues between the parties framed and tried, and
- (b) that any claimant be made a plaintiff in lieu or in addition to the original plaintiff, and shall proceed to try the suit in the ordinary manner.

5. Nothing in this Order shall be deemed to enable agents and tenants to sue their principals, or tenants to sue their landlords, for the purpose of compelling them to interplead with all persons other than persons making claim through such principals or landlords.

Illustrations.

(a) A deposits a box of jewels with B as his agent. A alleges that the jewels were wrongfully obtained from him by A, and claims them from B. B cannot institute an interpleader suit against A and C.

b). A. deposits a box of jewels with B as his agent; then writes to C for the purpose of making the box a security for a debt due from himself to C. A afterwards alleges that C's debt is satisfied, and C alleges the contrary. Both claim the jewels from B. B may institute an interpleader-suit against A and C.

6. Where the suit is properly instituted the Court may provide for the costs of the original plaintiff by giving him a charge on the property claimed or in some other effectual way.

ORDER XXXVI.

Special Case.

1. (1) Parties claiming to be interested in the decision of any question of fact or law may, where, in state case, Court's opinion enter into an agreement in writing stating such question in the form of a case for the opinion of the Court, and providing that, upon the finding of the Court with respect to such question,—

(a) a sum of money fixed by the parties or to be determined by the Court shall be paid by one of the parties to the other of them; or

(b) the sum of money specified by one of the parties shall be paid by the other of them; or

(c) one or more of the parties shall do, or refrain from doing, some other particular act specified in the agreement.

(2) Every case stated under this rule shall be divided into consecutively numbered paragraphs, and shall concisely state such facts and specify such documents as may be necessary to enable the Court to decide the question stated thereby.

2. Where the agreement is for the delivery of any property, or for the doing, or the refraining from doing, any particular act, the estimated value of the property

to be delivered, or to which the act specified has reference, shall be stated in the agreement.

3. (1) The agreement, if framed in accordance with the rules hereinbefore contained, may be filed in the Court which would have jurisdiction to entertain a suit, the amount or value of the subject-matter of which is the same as the amount or value of the subject-matter of the agreement.

(2) The agreement, when so filed, shall be numbered and registered as a suit between one or more of the parties claiming to be interested as plaintiff or plaintiffs and the other or the others of them as defendant or defendants; and notice shall be given to all the parties to the agreement, other than the party or parties by whom it was presented.

4. Where the agreement has been filed, the parties to it shall be subject to the jurisdiction of the Court and shall be bound by the statements contained therein.

5. (1) The case shall be set down for hearing as a suit instituted in the ordinary manner, and the provisions of this Code shall apply to such suit so far as the same are applicable.

(2) Where the Court is satisfied, after examination of the parties, or after taking such evidence as it thinks fit,—

(a) that the agreement was duly executed by them,

(b) that they have a *bona fide* interest in the question stated therein, and

(c) that the same is fit to be decided, it shall proceed to pronounce judgment thereon, in the same way as in a ordinary suit, and upon the judgment so pronounced a decree shall follow.

ORDER XXXVII.

Summary Procedure on Negotiable Instruments.

Application of Order.

1. This Order shall apply only to—

- (a) the High Courts of Judicature at Fort William, Madras and Bombay;
- (b) the Chief Court of Lower Burma;
- (c) the Court of the Judicial Commissioner of Sind;
- and
- (d) any other Court to which sections 532 to 537 of the Code of Civil Procedure, 1882, (XIV of 1882), have been already applied.

2. (1) All suits upon bills of exchange, hundis or promissory notes may, in case the plaintiff desires to proceed hereunder, be substituted by presenting a plaint in the form prescribed; but the summons shall be in Form No. 4 in Appendix B or in such other form as may be from time to time prescribed.

(2) In any case in which the plaintiff and summons are in such forms, respectively, the defendant shall not appear or defend the suit unless he obtains leave from a Judge as hereinafter provided so to appear and defend; and, in default of his obtaining such leave or of his appearance and defence in pursuance thereof, the allegations in the plaint shall be deemed to be admitted, and the plaintiff shall be entitled to a decree for any sum not exceeding the sum mentioned in the summons, together with interest at the rate specified (if any) to the date of the decree, and such sum for costs as may be prescribed, unless the plaintiff claims more than such fixed sum, in which case the costs shall be ascertained in the ordinary way, and such decree may be executed forthwith.

3. (1) The Court shall, upon application by the defendant showing cause on behalf of the defendant to the Court, give leave to appear and to defend the suit upon affidavits which disclose such facts as would make it in-

embent on the holder to prove consideration, or such other facts as the Court may deem sufficient to support the application.

(2) Leave to defend may be given unconditionally or subject to such terms as to payment into Court, giving security, framing and recording issues or otherwise as the Court thinks fit.

1. After decree the Court may, under special circumstances, set aside the decree, and if necessary stay or set aside execution, and may give leave to the defendant to appear to the summons and to defend the suit, if it seems reasonable to the Court so to do, and on such terms as the Court thinks fit.

5. In any proceeding under this Order the Court may order the bill, bundi or note in which the suit is founded to be forthwith deposited with an officer of the Court, and may further order that all proceedings shall be stayed until the plaintiff gives security for the costs thereof.

6. The holder of every dishonoured bill of exchange or promissory note shall have the same remedies for the recovery of the expenses incurred in noting the same for non-acceptance or non-payment, or otherwise, by reason of such dishonour, as he has under the order for the recovery of the amount of such bill or note.

7. Save as provided by this Order, the procedure in suits hereunder shall be the same as the procedure in suits instituted in the ordinary manner.

ORDER XXXVIII.

*Arrest and Attachment before Judgment.**Arrest before judgment.*

1. Where at any stage of a suit, other than a suit of the nature referred to in section 16, clauses (a) to (d), the Court is satisfied, by affidavit or otherwise,—

Where defendant may be called upon to furnish security for appearance,

- (a) that the defendant, with intent to delay the plaintiff, or to avoid any persons of the Court or to obstruct or delay the execution of any decree that may be passed against him,—

(i) has absconded or left the local limits of the jurisdiction of the Court, or

(ii) is about to abscond or leave the local limits of the jurisdiction of the Court, or

(iii) has disposed of or removed from the local limits of the jurisdiction of the Court his property or any part thereof, or

- (b) that the defendant is about to leave British India under circumstances affording reasonable probability that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant in the suit,

defendant

so why he

Provided that the defendant shall not be arrested if he pays to the officer entrusted with the execution of the warrant any sum specified in the warrant as sufficient to satisfy the plaintiff's claim; and such sum shall be held in deposit by the Court until the suit is disposed of or until the further order of the Court.

2. (1) Where the defendant fails to show such security, the Court shall order him either to deposit in Court money or other property sufficient to answer the claim against him, or to furnish security for his appearance at any time when called upon while the suit is pending and until satisfaction of the decree that may be passed against him in the suit. The Court may make such order as it thinks fit in regard to the amount which may have been paid by the defendant under the proviso to the last preceding rule.

(2) Every surety for the appearance of a defendant shall bind himself, in default of such appearance, to pay any sum of money which the defendant may be ordered to pay in the suit.

3. (1) A surety for the appearance of a defendant may at any time apply to the Court which he became such surety to be discharged from his obligation. The Court may, if it thinks fit, order the surety to furnish fresh security.

(3) On the appearance of the defendant in pursuance of the summons or warrant, or on his voluntary surrender, the Court shall direct the surety to be discharged from his obligation, and shall call upon the defendant to furnish fresh security.

4. Where the defendant fails to comply with the order under rule 2 or rule 3, the Court may commit him to the civil prison until the decision of the suit or, when a decree is passed against the defendant, until the decree has been satisfied. Provided that no person shall be detained in prison under this rule in any case for a longer period than six months, nor for a longer period than six weeks when the amount or value of the subject-matter of the suit does not exceed fifty rupees;

Provided also that no person shall be detained in prison under this rule after he has complied with such order.

Attachment before Judgment.

5. (1) Where,

Where defendant may be called upon to furnish security for production of property,

the Court may lay the execution of any decree that may be passed against him,—

(a) is about to dispose of the whole or any part of his property, or

(b) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Court,

the Court may direct the defendant, within a time to be fixed by it, either to furnish security, in such sum as may be specified in the order, to produce and place at the disposal of the Court, when required the said property, or the value of the same, or such portion thereof as may be sufficient to satisfy the decree, or to appear and show cause why he should not furnish security.

(2) The plaintiff shall, unless the Court otherwise directs, specify the property required to be attached and the estimated value thereof.

(3) The Court may also in the order direct the conditional attachment of the whole or any portion of the property so specified.

6. (1) Where the defendant fails to show cause why he should not furnish security, or fails to furnish the security required, within the time fixed by the Court, the Court may order that the property specified, or such portion thereof as appears sufficient to satisfy any decree which may be passed in the suit, be attached.

(2) Where the defendant shows such cause or furnishes the required security, and the property specified or any portion of it has been attached, the Court shall

order the attachment to be withdrawn, or make such other order as it thinks fit.

7. Save as otherwise expressly provided, the attachment shall be made in the manner provided for the attachment of property in execution of a decree.

8. Where any claim is preferred to property attached before judgment, such claim shall be investigated in the manner hereinbefore provided for the investigation of claims to property attached in execution of a decree for the payment of money.

9. Where an order is made for attachment before judgment, the Court shall order the attachment to be withdrawn when the removal of attachment when security furnished or sale discontinued.

10. Attachment before judgment shall not affect the rights of a third party claiming in the property attached.

Attachment before judgment not to affect the rights of a third party claiming in the property attached.

the sale in such decree.

11.

Property attached before judgment shall not be re-attached in execution of a decree.

of the plaintiff, it shall not be necessary upon an application for execution of such decree to apply for a re-attachment of the property.

such produce.

(203)
ORDER XXXIX.

Temporary Injunctions and Interlocutory Orders.
Temporary Injunctions.

Cases in which temporary injunction may be granted.

1. Where in any suit it is proved by affidavit or otherwise—

(a) that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or

(b) that the defendant threatens, or intends to remove or dispose of his property with a view to defraud his creditors,

the Court may by order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property as the Court thinks fit, until the disposal of the suit or until further orders.

2. (1) In any suit for restraining the defendant from committing a breach of contract or other injury of any kind, whether compensation is claimed in the suit or not, the plaintiff may, at any time after the commencement of the suit, and either before or after judgment, apply to the Court for a temporary injunction to restrain the defendant from committing the breach of contract or injury complained of, or any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right.

nt.
(3) In case of a disobedience, or of breach of any such terms, the Court granting an injunction may order the

property of the person guilty of such disobedience or breach to be attached and may also order such person to be detained in the civil prison for a term not exceeding six months, unless in the meantime the Court directs release.

(4) No attachment under this rule shall remain in force for more than one year, at the end of which time the disobedience or breach continues, the property attached may be sold, and out of the proceeds the Court may award such compensation as it thinks fit, and shall pay the balance, if any, to the party entitled thereto.

3. The Court shall in all cases, except where it appears that the object of granting the injunction would be defeated by the delay, be granting an injunction, direct notice of the application for the same to be given to the opposite party.

4. Any order for an injunction may be discharged, varied, or set aside by the Court on application made thereto by any party dissatisfied with such order.

5. An injunction directed to a corporation is binding not only on the corporation itself, but also on all members and officers of the corporation whose personal actions seek to restrain...

Interlocutory Orders.

6. The Court may, on the application of any party, grant an order for the sale of any property...

and natural decay, or which for any other just and sufficient cause it may be desirable to have sold at once.

attention, preservation,
on, inspection, etc.,
subject-matter of

7. (1) The Court may, on the application of any party to a suit, and on such terms as it thinks fit,—

- (a) make an order for the detention, preservation or inspection of any property which is the subject-matter of such suit, or as to which any question may arise therein;
- (b) for all or any of the purposes aforesaid authorize any person to enter upon or into any land or building in the possession of any other party to such suit; and
- (c) for all or any of the purposes aforesaid authorize any samples to be taken, or any observation to be made or experiment to be tried, which may seem necessary or expedient for the purpose of obtaining full information or evidence.

(2) The provisions as to execution of process shall apply, *mutatis mutandis*, to persons authorized to enter under this rule.

8. (1) An application by the plaintiff for an order under rule 6 or rule 7 may be made Application for such order to be after notice. after notice to the defendant at any time after institution of the suit.

(2) An application by the defendant for a like order may be made after notice to the plaintiff at any time after appearance.

9. Where land paying revenue to Government, or a tenure liable to sale, is the subject-matter of a suit, if the party in possession of such land or tenure neglects to pay the Government revenue, or the rent due to the proprietor of the tenure, as the case may be, and such land or tenure is consequently ordered to be sold, any other party to the suit claiming to have an interest in such land or tenure may, upon payment of the revenue or rent due

When party may be put in immediate possession of land the subject-matter of suit.

those concerned will be promoted by the management of the Collector, the Court may, with the consent of the Collector, appoint him to be receiver of such property.

ORDER XLI.

Appeals from Original Decrees.

1. (1) Every appeal shall be preferred in the form of a memorandum signed by the appellant or his pleader and presented to the Court or to such officer as it appoints in this behalf. The memorandum shall be accompanied by a copy of the decree appealed from (unless the Appellate Court dispenses therewith) of judgment on which it is founded.

(2) The memorandum shall set forth, concisely under distinct heads, the grounds of objection to the decree appealed from without any argument or narrative, and such grounds shall be numbered consecutively.

2. The appellant shall not, except by leave of the Court, urge or be heard in support of any ground of objection not set forth in the memorandum of appeal; but the Appellate Court, in deciding the appeal, shall not be confined to the grounds of objection set forth in the memorandum of appeal or taken by leave of the Court under this rule.

Provided that the Court shall not rest its decision on any other ground unless the party who may be affected thereby has had a sufficient opportunity of contesting

the appeal for the purpose of being amended within the time to be fixed by the Court or be amended thereafter.

(2) Where the Court rejects any memorandum, it shall record the reasons for such rejection.

(3) Where a memorandum of appeal is amended, the Judge, or such officer as he appoints in this behalf, shall sign or initial the amendment.

4. Where there are more plaintiffs or more defendants than one in a suit, and the decree appealed from proceeds on any ground common to all the plaintiffs or to all the defendants; any one of the plaintiffs or of the defendants may appeal from the whole decree, and thereupon the Appellate Court may reverse or vary the decree in favour of all the plaintiffs or defendants, as the case may be.

Stay of proceedings and of execution.

5. (1) An appeal shall not operate as a stay of proceedings under a decree or order appealed from except so far as the Appellate Court may order, nor shall execution of a decree be stayed by reason only of an appeal having been preferred from the decree; but the Appellate Court may for sufficient cause order stay of execution of such decree.

(2) Where an application is made for stay of execution of an appealable decree before the expiration of the time allowed for appealing therefrom, the Court which passed the decree may on sufficient cause being shown order the execution to be stayed.

(3) No order for stay of execution shall be made under sub-rule (1) or sub-rule (2) unless the Court making it is satisfied—

(a) that substantial loss may result to the party applying for stay of execution unless the order is made;

(b) that the application has been made without unreasonable delay; and

(c) that security has been given by the applicant for the due performance of such decree or order may ultimately be binding upon him.

(d) Notwithstanding anything contained in sub-rule (3), the Court may make an *ex parte* order for stay of execution pending the hearing of the application.

6. (1) Where an order is made for the execution of a decree from which an appeal is pending, the Court which passed the decree shall, on sufficient cause being shown by the appellant, require the appellant to provide security for the due performance of the decree or order of the Appellate Court, or the Appellate Court may for like cause direct the Court which passed the decree to take such security.

(2) Where an order has been made for the sale of immoveable property in execution of a decree, and an appeal is pending from such decree, the sale shall, on the application of the judgment-debtor to the Court which made the order, be stayed on such terms as to giving security or otherwise as the Court thinks fit until the appeal is disposed of.

7. No such security as is mentioned in rules 5 and 6 shall be required from the Government or any public officer sued in respect of an act alleged to be done by him in his official capacity.

8. The powers conferred by rules 5 and 6 shall be exercisable where an appeal may be or has been preferred not from the decree but from an order made in execution of such decree.

Procedure on admission of appeal.

1. (1) admitted,
 Registry of m per officer
 idum of appeal. hereon the
 ite of presentation, and shall register the appeal in a
 ook to be kept for the purpose.

Register of Appeals. (2) Such book shall be called the Re-
 gister of Appeals.

10. (1) The Appellate Court may in its discretion,
 Appellate Court may
 require appellant to
 furnish security for
 upon the application of the respondent,
 demand from the appellant security for the costs of the
 appeal, or of the original suit, or of both :

Provided that the Court shall demand such security in
 all cases in which the appellant is resid-
 ing out of British India, and is not
 possessed of any sufficient immoveable
 property within British India other than the property
 if any) to which the appeal relates.

(2) Where such security is not furnished within such
 time as the Court orders, the Court shall reject the
 appeal.

11. (1) The Appellate Court, after sending for the
 record if it thinks fit so to do, and after
 fixing a day for hearing the appellant
 or his pleader and hearing him accord-
 ingly if he appears on that day, may dismiss the appeal
 without sending notice to the Court from whose decree
 the appeal is preferred and without serving notice on
 the respondent or his pleader.

(2) If on the day fixed or any other day to which the
 hearing may be adjourned the appellant does not appear
 when the appeal is called on for hearing, the Court may
 make an order that the appeal be dismissed.

(3) The dismissal of an appeal under this rule shall be notified to the Court from whose decree the appeal is preferred.

12. (1) Unless the Appellate Court dismisses the day for hearing appeal under rule 11, it shall fix a day for hearing the appeal.

(2) Such day shall be fixed with reference to the current business of the Court, the place of residence of the respondent, and the time necessary for the service of the notice of appeal, so as to allow the respondent sufficient time to appear and answer the appeal on such day.

13. (1) Where the appeal is not dismissed under rule 11, the Appellate Court shall send notice of the appeal to the Court from whose decree the appeal is preferred.

(2) Where the

Transmission of papers to Appellate Court.

receiving such notice.

all material papers in the suit, or such papers as may be specially called for by the Appellate Court.

(3) Either party may apply in writing to the Court from whose decree the appeal is preferred, specifying any of the papers in such Court of which he requires copies to be made; and copies of such papers shall be made at the expense of, and given to, the applicant.

14. (1) Notice

Publication and service of notice of day for hearing appeal.

decree the appeal is preferred, and shall be served on the respondent or on his pleader in the Appellate Court in the manner provided for the service on a defendant of a summons to appear and answer; and all the provisions applicable to such summons, and to proceedings with

rence to the service thereof, shall apply to the service of such notice.

(2) Instead of sending the notice to the Court from whose decree the appeal is preferred the Appellate Court may itself cause the notice to be served on the respondent or his pleader under the provisions above referred to.

13. The notice to the respondent shall declare that, if he does not appear in the Appellate Court on the day so fixed, the appeal will be heard *ex parte*.

Procedure on hearing.

16. (1) On the day fixed, or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal.

(2) The Court shall then, if it does not dismiss the appeal at once, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply.

17. (1) Where on the day fixed, or on any other day to which the hearing may be adjourned, the appellant does not appear when the appeal is called on for hearing, the Court may make an order that the appeal be dismissed.

(2) Where the appellant appears and the respondent does not appear, the appeal shall be heard *ex parte*.

18. Where on the day fixed, or on any other day to which the hearing may be adjourned, it is found that the notice to the respondent has not been served in consequence of the failure of the appellant to deposit, within the period fixed the sum required to defray the cost of serving the notice, the Court may make an order that the appeal be dismissed :

Provided that no such order shall be made although the notice has not been served upon the respondent, if on any such day the respondent appears when the appeal is called on for hearing.

19 Where an appeal is dismissed under rule 11. it is admissible to be admitted for call sub-rule (2), or rule 17 or rule 18 the appellant may apply to the Appellate Court for the re-admission of the appeal, and where it is proved that he was prevented by any sufficient cause from appearing when the appeal was called on for hearing or from depositing the sum so required, the Court shall re-admit the appeal on such terms as to costs or otherwise as it thinks fit.

20. Where it appears to the Court at the hearing that that it is within the jurisdiction of the Court to hear the appeal any person who was a party to the suit in the Court from whose decree the appeal is preferred, but who has not been made a party to the appeal, is interested in the result of the appeal, the Court may adjourn the hearing to a future day to be fixed by the Court and direct that such person be made a respondent.

21. Where an appeal is heard *ex parte* and judgment is pronounced against the respondent, he if he is not a party to the appeal may apply to the Appellate Court to re-hear the appeal, and if he satisfies the Court that the notice was not duly served or that he was prevented by sufficient cause from appearing when the appeal was called on for hearing, the Court shall re-hear the appeal on such terms as to costs or otherwise as it thinks fit to impose upon him.

22 (1) Any respondent, though he may not have if he is not a party to the appeal appealed from any part of the decree, may not only support the decree on any of the grounds decided against him in the Court below, but take any cross.

objection to the decree which he could have taken by way of appeal, provided he has filed such objection in the Appellate Court within one month from the date of service on him or his pleader of notice of the day fixed for hearing the appeal, or within such further time as the Appellate Court may see fit to allow.

(2) Such cross-objection shall be in the form of a memorandum, and the provisions of rule 1, so far as they relate to the form and contents of the memorandum of appeal, shall apply thereto.

(3) Unless the respondent files with the objection a written acknowledgment from the party who may be affected by such objection or his pleader of having received a copy thereof, the Appellate Court shall cause a copy to be served, as soon as may be after the filing of the objection, on such party or his pleader at the expense of the respondent.

(4) Where, in any case in which any respondent has under this rule filed a memorandum of objection, the original appeal is withdrawn or is dismissed for default, the objection so filed may nevertheless be heard and determined after such notice to the other parties as the Court thinks fit.

(5) The provisions relating to pauper appeals shall, so far as they can be made applicable, apply to an objection under this rule.

23. Where the Court from whose decree an appeal is preferred has disposed of the suit upon a preliminary point and the decree is reversed in appeal, and Appellate Court may, if it thinks fit, by order remand the case, and may further direct what issue or issues shall be tried in the case so remanded, and shall send a copy of its judgment and order to the Court from whose decree the appeal is preferred, with directions to re-admit the suit under its original number in the

register of civil suits, and proceed to determine the suit, and the evidence (if any) recorded during the original trial shall, subject to all just exceptions, be evidence during the trial after remand.

24. Where the evidence upon the record is sufficient

the appeal is preferred has proceeded wholly upon either ground other than that on which the Appellate Court proceeds,

25. Where the Court from whose decree the appeal is preferred has omitted to frame or try any issue, or to determine any question of fact, which answers to the Appellate

Where Appellate Court may frame issues and refer them for trial to Court whose decree appealed from

the suit upon

any, frame is:

from whose decree the appeal is preferred, and in such case shall direct such Court to take the additional evidence required ;

and such Court shall proceed to try such issues, and shall return the evidence to the Appellate Court together with its findings thereon and the reasons therefor.

26. (1) Such evidence and findings shall form part of the record in the suit ; and either party may, within a time to be fixed by the Appellate Court, present a memorandum of objections to any finding.

Findings and reasons to be put on record. Objections to finding

(2) After the expiration of the period so fixed for presenting such memorandum the Appellate Court shall proceed to determine the appeal.

Determination of appeal

27. (1) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if—

- (a) the Court from whose decree the appeal is preferred, evidence which—
 (b) any document to be examined to enable it to pronounce judgment, or for any other substantial cause,
 the Appellate Court may allow such evidence or, document to be produced, or witness to be examined.

(2) Wherever additional evidence is allowed to be produced by an Appellate Court, the Court shall record the reason for its admission.

28. Wherever additional evidence is allowed to be produced the Appellate Court may examine, or direct the examination of, such evidence, or direct the production of such evidence, or direct the production of such evidence and to send it when taken to the Appellate Court.

29. Where additional evidence is directed or allowed to be taken the Appellate Court shall specify the points to which the evidence is to be confined, and record on its proceedings the points so specified.

Judgment in appeal.

30. The Appellate Court, after hearing the parties or their pleaders and referring to any part of the proceedings, whether on appeal or in the Court from whose decree the appeal is preferred, to which reference may be considered necessary, shall pronounce judgment in open Court, either at once or on some future day, of which notice shall be given to the parties or their pleaders.

31. The judgment of the Appellate Court shall ^{contain date and particulars of judgment.} in writing and shall state—

- (a) the points for determination;
- (b) the decision thereon;
- (c) the reasons for the decision; and
- (d) where the decree appealed from is reversed or varied, the relief to which the appellant is entitled;

and shall at the time that it is pronounced be signed and dated by the Judge or by the Judges concurring therein

32. The judgment may be for confirming, varied ^{what judgment may be} or reversing the decree from which the appeal is preferred, or, if the parties to the appeal agree as to the form which the decree in appeal shall take, or as to the order to be made in appeal, the Appellate Court may pass a decree or make an order accordingly.

33. The Appellate Court shall have power to pass ^{Power of Court of Appeal} any decree and make any order which ought to have been passed or made and to pass or make such further or other decrees or orders as

any of the respondents or parties, although such respondents or parties may not have filed any appeal or objection.

Illustration.

A claims a sum of money as due to him from X or Y, and in a suit against both obtains a decree against X. X appeals and A and Y are respondents. The Appellate Court decides in favour of X. It has power to pass a decree against Y.

34. Where the appeal is heard by more Judges than one, any Judge dissenting from the judgment of the Court shall state in writing the decision or order which he thinks should be passed on the appeal, and he may state his reasons for the same.

Decree in appeal.

35. (1) The decree of the Appellate Court shall bear date the day on which the judgment was pronounced.

(2) The decree shall contain the number of the appeal, the names and descriptions of the appellant and respondent, and a clear specification of the relief granted or other adjudication made.

(3) The decree shall also state the amount of costs incurred in the appeal, and by whom, or out of what property, and in what proportions such costs and the costs in the suit are to be paid.

(4) The decree shall be signed and dated by the Judge or Judges who passed it :

Provided that where there are more Judges than one and there is a difference of opinion among them, it shall not be necessary for any Judge dissenting from the judgment of the Court to sign the decree.

36. Certified copies of the judgment and decree in appeal shall be furnished to the parties on application to the Appellate Court and at their expense.

37. A copy of the judgment and of the decree, certified by the Appellate Court or such officer as it appoints in this behalf, shall be sent to the Court which passed the decree appealed from and shall be filed with the original

proceedings in the suit; and an entry of the judgment of the Appellate Court shall be made in the register of civil suits.

ORDER XLII.

Appeals from Appellate Decrees.

- 1 The rules of Order XLI shall apply so far as may be, to appeals from appellate decrees.

ORDER XLIII.

Appeals from Orders.

- 1 An appeal shall lie from the following orders under the provisions of section 104, namely :—

- (a) an order under rule 10 of Order VII returning a plaint to be presented to the proper Court ;
- (b) an order under rule 10 of Order VIII pronouncing judgment against a party ;
- 1 (c) an order under rule 9 of Order IX rejecting an application (in a case open to appeal) for an order to set aside the dismissal of a suit ;
- (d) an order under rule 13 of Order IX rejecting an application (in a case open to appeal) for an order to set aside a decree passed *ex parte* ;
- (e) an order under rule 4 of Order X pronouncing judgment against a party ;
- (f) an order under rule 21 of Order XI ;
- (g) an order under rule 10 of Order XVI for the attachment of property ;
- (h) an order under rule 20 of Order XVI pronouncing judgment against a party ;
- (i) an order under rule 34 of Order XXI on an objection to the draft of a document, or of an endorsement ;
- (j) an order under rule 72 or rule 92 of Order XXI setting aside or refusing to set aside a sale ;

ORDER XLIV.

Pauper Appeals.

1. Any person entitled to prefer an appeal, who is unable to pay the fee required for the

Who may present as
pauper

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mem-

pauper,

deal as a

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entation

suits by

paupers, in so far as those provisions are applicable:

Provided that the Court shall reject the application unless, upon a perusal thereof and of the judgment and decree appealed from, it sees reason to think that the decree is contrary to law or to some usage having the force of law or is otherwise erroneous or unjust.

Procedure on appli-
cation for admission of
appeal

2. The inquiry into the pauperism of the applicant may be made either by the Appellate Court or under the orders of the Appellate Court by the Court from whose decision the appeal is preferred:

Inquiry into pauper-
ism

Provided that, if the applicant was allowed to sue or appeal as a pauper in the Court from whose decree the appeal is preferred, no inquiry in respect of his pauperism shall be made unless the Appellate Court

ORDER XLV.

Appeals to the King in Council.

1. In this Order, unless there is something repugnant in the subject or context, the expression "decree" shall include a final order.

"Decree" defined

2. Whoever desires to appeal to His Majesty in Council shall apply by petition to the Court whose decree is complained of.

Application to Court
whose decree is com-
plained of

3. (1) Every petition shall state the grounds of appeal and pray for a certificate either that, as regards amount or value and nature, the case fulfils the requirements of section 10, or that it is otherwise a fit one for appeal to His Majesty in Council.

(2) Upon receipt of such petition, the Court shall direct notice to be served on the opposite party to show cause why the said certificate should not be granted.

4. For the purposes of pecuniary valuation, suits involving substantially the same questions for determination and decided by the same judgment may be consolidated; but suits decided by separate judgments shall not be consolidated, notwithstanding that they involve substantially the same questions for determination.

5. In the event of any dispute arising between the parties as to the amount or value of the subject-matter of the suit in the Court of first instance, or as to the amount or value of the subject-matter in dispute on appeal to His Majesty in Council, the Court to which a petition for a certificate is made under rule 2 may, if it thinks fit, refer such dispute for report to the Court of first instance, which last-mentioned Court shall proceed to determine such amount or value and shall return its report together with the evidence to the Court by which the reference was made.

6. Where such certificate is refused, the petition shall be dismissed.

7. (1) Where the certificate is granted, the applicant shall, within six months from the date of the decree complained of, or within six weeks from the date of the grant of the certificate, whichever is the later date,—

- (a) impound any moveable property in dispute or any part thereof, or
- (b) allow the decree appealed from to be executed taking such security from the respondent as the Court thinks fit for the due performance of any order which His Majesty in Council may make on the appeal, or
- (c) stay the execution of the decree appealed from taking such security from the appellant as the Court thinks fit for the due performance of the decree appealed from, or of any order which His Majesty in Council may make on the appeal, or
- (d) place any party seeking the assistance of the Court under such conditions or give such other direction respecting the subject-matter of the appeal, as it thinks fit, by the appointment of a receiver or otherwise.

11 (1) Where at any time during the pendency of the appeal the security furnished by either party appears inadequate, the Court may, on the application of the other party, require further security

(2) In default of such further security being furnished as required by the Court,—

- (a) if the original security was furnished by the appellant, the Court may, on the application of the respondent, execute the decree appealed from as if the appellant had furnished no such security ;
- (b) if the original security was furnished by the respondent, the Court shall, so far as may be practicable, stay the further execution of the decree, and restore the parties to the position in which they respectively were when the security

rity which appears inadequate was furnished, or give such direction respecting the subject-matter of the appeal as it thinks fit.

15. (1) Whoever desires to obtain execution of any order of His Majesty in Council shall ^{to enforce} apply by petition, accompanied by a certified copy of the decree passed or order made in appeal and sought to be executed, to the Court from which the appeal to His Majesty was preferred.

(2) Such Court shall transmit the order of His Majesty in Council to the Court which passed the first decree appealed from, or to such other Court as His Majesty in Council by such order may direct, and shall (upon the application of either party) give such directions as may be required for the execution of the same; and the Court to which the said order is so transmitted shall execute it accordingly, in the manner and according to the provisions applicable to the execution of its original decrees.

(3) When any monies expressed to be payable in British currency are payable in India under such order, the amount so payable shall be estimated according to the rate of exchange for the time being fixed at the date of the making of the order by the Secretary of State for India in Council with the concurrence of the Lords Commissioners of His Majesty's Treasury for the adjustment of financial transactions between the Imperial and the Indian Governments.

16. The orders made by the Court which executes ^{Appeal from order relating to execution} the order of His Majesty in Council, relating to such execution, shall be appealable in the same manner and subject to the same rules as the orders of such Court relating to the execution of its own decrees.

(4) A Court subordinate to a District Court shall comply with any requisition which the District Court may make for any record or information for the purpose of this rule.

ORDER XLVII.

Review.

Application for review of judgment.

1. (1) Any person considering himself aggrieved—

- (a) by a decree or order from which an appeal allowed, but from which no appeal has been preferred,
- (b) by a decree or order from which no appeal allowed, or
- (c) by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being responsible, he can present to the Appellate Court the case on which he applies for the review.

2. An application for review of a decree or order of a Court, not being a High Court, on some ground other than the discovery of such new and important matter

To whom application for review may be made

evidence as is referred to in rule 1 or the existence of a clerical or arithmetical mistake or error apparent on the face of the decree, shall be made only to the Judge who passed the decree, or to his successor, or to a Judge of the same Court to be appointed by the Court to review the decree; and the decree shall be passed or set aside or varied or affirmed with or without costs as the Court may think fit.

rule 4, sub-rule (2), proviso (a), be disposed of by the Judge or Judges who passed the decree, or by his successor.

3. The provisions as to the form of preferring appeals shall apply, *mutatis mutandis*, to applications for review.

4. (1) Where it appears to the Court that there is not sufficient ground for a review, it shall reject the application.

(2) Where the Court is of opinion that the application for review should be granted, it shall grant the same:

Provided that—

(a) no such application shall be granted without previous notice to the opposite party, to enable him to appear and be heard in support of the decree or order, a review of which is applied for, and

(b) no such application shall be granted unless the applicant shows that there is sufficient ground for a review, which the Court is satisfied that the applicant knows or believes to be true, and that he has taken all reasonable steps to establish the same without strict proof of such allegation.

5. Where the Judge or Judges, or any one of the Judges, who passed the decree or made the order, a review of which is applied for, continues or continue attached to the Court at the time when the application for a review is presented, and is, or are not,

Application for review in Court consisting of two or more Judges.

(4) A Court subordinate to a District Court shall comply with any requisition which the District Court may make for any record or information for the purpose of this rule.

ORDER XLVII

Review.

Application for review of judgment

1. (1) Any person considering himself aggrieved—

- (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,
- (b) by a decree or order from which no appeal is allowed, or
- (c) by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the decree or order, or for any other sufficient cause, desires to apply for a review of the decree or order.

(2) A party who is not appealing from a decree or order, may apply for a review of judgment notwithstanding the pendency of an appeal by some other party, where the ground of such appeal is common to the applicant and the appellant, or when, being respondent in the appeal, he has obtained leave from the Court to set aside the decree or order.

To whom applications for review may be made.

1. (2) A party who is not appealing from a decree or order, may apply for a review of judgment notwithstanding the pendency of an appeal by some other party, where the ground of such appeal is common to the applicant and the appellant, or when, being respondent in the appeal, he has obtained leave from the Court to set aside the decree or order.

evidence as is referred to in rule 1 or the existence of a clerical or arithmetical mistake or error apparent on the face of the decree, shall be made only to the Judge who made the decree.

rule 4, sub-rule (2), proviso (a), be disposed of by his successor.

3. The provisions as to the form of preferring appeals shall apply, *mutatis mutandis*, to applications for review.

4. (1) Where it appears to the Court that there is not sufficient ground for a review, it shall reject the application.

(2) Where the Court is of opinion that the application for review should be granted, it shall grant the same:

Provided that—

(a) no such application shall be granted without previous notice to the opposite party, to enable him to appear and be heard in support of the decree or order, a review of which is applied for: and

(b) no such application shall be granted on the ground of discovery of new matter or evidence, which the applicant alleges was not within his knowledge, or could not be adduced by him when the decree or order was passed or made, without strict proof of such allegation.

5. Where the Judge or Judges, or any one of the Judges, who passed the decree or made the order, a review of which is applied for, continues or continue attached to the Court at the time when the application for review is presented, and is not or are not

Application for review in Court consisting of two or more Judges.

ORDER XLIX

Chartered High Courts.

1. Notice to produce documents, summonses, to witnesses, and every other judicial process, issued in the exercise of the original civil jurisdiction of the High Court, and of its matrimonial, testamentary and intestate

Who may serve
processes of High
Court.

jurisdictions, except summonses to defendants, writs of execution and notices to respondents may be served by the attorneys in the suits, or by persons employed by them, or by such other persons as the High Court, by any rule or order, directs.

2. Nothing in this schedule shall be deemed to limit

having in respect of
Chartered High Courts

or otherwise affect any rules in force at the commencement of this Code for the taking of evidence or the recording of

judgments and orders by a Chartered High Court.

3 The

Application of

to any Chartered
Court of its original civil
jurisdiction, namely :—

(1) rule 10 and rule 11, clauses (b) and (c) of Order VII ;

(2) rule 3 of Order X ;

(3) rule 2 of Order XVI

(4) rules 5, 6, 8, 9, 10, 11, 13, 14, 15 and 16, (so far as relates to the manner of taking evidence) of Order XVIII ;

(5) rules 1 to 8 of Order XX ; and

(6) rule 7 of Order XXXIII (so far as relates to the making of a ...)

and
High Court

to any such
jurisdiction

(255)
ORDER L.

Provincial Small Cause Courts.

1. The provisions hereinafter specified shall not extend to Courts constituted under the Provincial Small Causes Courts Act, 1887, (IX of 1887), or to Courts exercising

Provincial
Cause Courts.

Small

the jurisdiction of a Court of Small Causes under that Act, that is to say—

(a) so much of this schedule as relates to—

(i) suits excepted from the cognizance of a Court of Small Causes or the execution of decrees in such suits ;

(ii) the execution of decrees against immoveable property or the interest of a partner in partnership property ;

(iii) the settlement of issues ; and

(b) the following rules and orders,—

Order II, r. 1 (frame of suit) ;

Order X, r. 3 (record of examination of parties) ;

Order XV, except so much of rule 4 as provides for the pronouncement at once of judgment ;

Order XVIII, rules 5 to 12 (evidence) ;

Orders XLI to XLV (appeals) ;

Order XLVII, rules 2,3,5,6,7 (review) ;

Order LI.

ORDER LI.

Presidency Small Cause Courts.

(1) Save as provided in rules 22 and 23 of Order V, rules 4 and 7 of Order XXI, and rules 4 of Order XXVI, and by the Presidency Small Cause Courts Act, 1882,

Presidency
Cause Courts.

Small

(XV of 1882), this schedule shall not extend to any suit or proceeding in any Court of Small Causes established in the towns of Calcutta, Madras and Bombay.

The Official Receiver.

A. B., a minor (*add description and residence*), by C. D. (*or* the Court of Wards), his next friend.

A. B. (*add description and residence*), a person of unsound (*or* of weak mind), by C. D., his next friend

A. B. a firm carrying on business in partnership at

A. B. (*add description and residence*), by his constituted attorney C. D. (*add description and residence*).

A. B. (*add description and residence*), Shebait of Taluk

A. B. (*add description and residence*), executor of C. D., deceased

A. B. (*add description and residence*), heir of C. D., deceased

(3) PLAINT

No 1

MONEY LENT.

Title

1. B., the above named plaintiff, states as follows:—

1. On the day of 19 , he lent the defendant rupees repayable on the day of

2. The defendant has not paid the same, except rupees paid on the day of 19 .

[If the plaintiff claims exception from any law of limitation.]

3. The plaintiff was a minor (*or* insane) from the day of till the day of .

4. [Facts showing when the cause of action arose and that the Court has jurisdiction.]

5. The value of the subject-matter of the suit for the purpose of jurisdiction is rupees _____ and for the purpose of court-fees is _____ rupees.

6. The plaintiff claims _____ rupees, with interest at _____ per cent from the _____ day of _____ 19 ____.

— — —
No 2

MONEY OVERPAID.

Title.

1 *B.*, the above-named plaintiff, states as follows

1. On the _____ day of _____ 19 ____, the plaintiff agreed to buy and the defendant agreed to sell _____ bars of silver at _____ annas per tola of fine silver.

2. The plaintiff procured the said bars to be assayed by *E. F.*, who was paid by the defendant for such assay, and *E. F.* declared each of the bars to contain 1,500 tolas of fine silver, and the plaintiff accordingly paid the defendant _____ rupees.

3. Each of the said bars contained only 1,200 tolas of fine silver, of which fact the plaintiff was ignorant when he made the payment.

4. The defendant has not repaid the sum so overpaid.

[As in paras 1 and 3 of Form No 1, and Relief claimed.]

— — —
No 3.

GOODS SOLD AT A FIXED PRICE AND DELIVERED.

Title.

1 *B.*, the above named plaintiff, states as follows —

1. On the _____ day of _____ 19 ____, *E. F.* sold and delivered to the defendant [one hundred barrels of flour, or the goods mentioned in the schedule hereto annexed, [or sundry goods].

2. The defendant promised to pay _____ rupees for the said goods on delivery [or on the _____ day of _____, same day before the plaint was filed].

3 He has not paid the same

1 E. F. died on the day of 19 .
By his last will he appointed his brother, the plaintiff executor

As in paras 1 and 5 of Form No 1.

7 The plaintiff as executor of E. F. claims *[Reliefs claimed]*

No. 4

GOODS SOLD AT A REASONABLE PRICE AND DELIVERED (Title)

1 B the above named plaintiff, states as follows —

1 On the day of 19 , plaintiff
sold and delivered to the defendant *[sundry articles of house
furniture]* but no express agreement was made as to the price

2 The goods were reasonably worth rupees

3 The defendant has not paid the money

As in paras 1 and 5 of Form No 1, and Reliefs claimed

No. 5

GOODS MADE AT DEFENDANT'S REQUEST, AND NOT ACCEPTED

(Title)

1 B, the above-named plaintiff, states as follows :—

1 On the day of 19 , E. F. agreed
with the plaintiff that the plaintiff should make for him *[six tables
and fifty chairs]*, and that E. F. should pay for the goods on
delivery rupees.

2 The plaintiff made the goods, and on the day of
19 offered to deliver them to E. F., and has ever
since been ready and willing so to do

3 E. F. has not accepted the goods or paid for them
[As in paras 1 and 5 of Form No. 1, and Relief claimed]

No. 6.

DEFICIENCY UPON A RE-SALE [GOODS SOLD AT AUCTION].

(Title)

A B., the above-named plaintiff, states as follows .

1. On the day of 19 , the plaintiff

which condition the defendant had notice.

2. The defendant purchased [one crate of crockery] at the
at the price of rupees3. The plaintiff was ready and willing to deliver the goods
to the defendant on the date of the sale and for [ten days] after.4. The defendant did not take away the goods purchased by
him, nor pay for them within [ten days] after the sale, nor after-
wards.5. On the day of 19 , the plaintiff
re-sold the [crate of crockery], on account of the defendant, by
public auction, for rupees.6. The expenses attendant upon such re-sale amounted
to rupees7. The defendant has not paid the deficiency thus arising,
amounting to rupees

[As in paras, 4 and 5 of Form No. 1, and Relief claimed.]

No. 7.

SERVICES AT A REASONABLE RATE.

(Title)

A B., the above-named plaintiff, states as follows .—

1. Between the day of 19 , and
the day of 19 , at , plaintiff
executed sundry drawings, design and diagrams] for the defend-

ant, at his request, but no express agreement was made as to the sum to be paid for such services.

2 The services were reasonably worth _____ rupees.

3 The defendant has not paid the money.

Is in purs. 4 and 5 of Form No 1, and Relief claimed?

No. 8.

SERVICES AND MATERIALS AT A REASONABLE COST

(Title.)

A. B. the above-named plaintiff states as follows. —

1 On the _____ day of _____ 19____, at _____ the plaintiff built a house (known as No. _____) and furnished the materials therefor, for the defendant at his request but no express agreement was made as to the amount to be paid for such work and materials.

2 The work done and materials supplied were reasonably worth _____ rupees.

3 The defendant has not paid the money.

Is in purs. 4 and 5 of Form No 1 and Relief claimed?

No. 9

USE AND OCCUPATION

(Title.)

A. B., the above-named plaintiff executor of the will of X Y, deceased, states as follows. —

1 That the defendant occupied the [house No. _____ Street], by permission of the said X Y, from the _____ day of _____ 19____, until the _____ day of _____ 19____, and no agreement was made as to payment for the use of the said premises.

2 That the use of the said premises for the said period was reasonably worth _____ rupees.

3 The defendant has not paid the money.

(1)
[As in paras. 4 and 5 of Form No. 1]

6. The plaintiff as executor of X Y., claims [Relief claimed]

No. 10

ON AN AWARD.

(Title.)

A. B., the above-named plaintiff, states as follows - -

1. On the day of 19 , the plaintiff and defendant, having a difference between them concerning demand of the plaintiff for the price of ten barrels of oil, which defendant refused to pay, agreed in writing to submit the difference to the arbitration of E. F., and G. H., and the original is annexed hereto.

2. On the day of 19 , the arbitrator awarded that the defendant should [pay the plaintiff rupees]

3. The defendant has not paid the money.

[As in paras. 4 and 5 of Form No. 1, and Relief claimed]

No. 11

ON A FOREIGN JUDGMENT.

(Title)

A. B., the above-named plaintiff states as follows. -

1. On the day of 19 , at in the State [or Kingdom], of , the Court of that State [or Kingdom], in a suit therein pending between the plaintiff and the defendant, duly adjudged that the defendant should pay to the plaintiff rupees, with interest from the said date.

2. The defendant has not paid the money.

[As in paras 4 and 5 of Form No. 1, and Relief claimed.]

No. 12.

AGAINST SURETY FOR PAYMENT OF RENT

(Title.)

A. B. the above-named plaintiff, states as follows. —

1. On the _____ day of _____ 19____, E. F. hired from the plaintiff for the term of _____ years the [house No. _____ Street], at the annual rent of _____ rupees payable monthly.

2. The defendant agreed, in consideration of the letting of the premises to E. F. to guarantee the punctual payment of the rent.

3. The rent for the month of _____ 19____, amounting to _____ rupees has not been paid.

It by the terms of the agreement, notice is required to be given to the surety, and _____

4. On the _____ day of _____ 19____, the plaintiff gave notice to the defendant of the non-payment of the rent, and demanded payment thereof.

5. The defendant has not paid the same.

As in paras 1 and 5 of form No. 1, and Relief claimed

No. 13

BREACH OF AGREEMENT TO PURCHASE LAND.

(Title.)

A. B. the above-named plaintiff, states as follows. —

1. On the _____ day of _____ 19____, the plaintiff and defendant entered into an agreement, and the original document is hereto annexed.

[Or, On the _____ day of _____ 19____, the plaintiff should sell _____ purchase from _____ for _____

rupees.]

2. On the day of 19 ,
 the plaintiff, being then the absolute owner of the property [and
 same being free from all incumbrances as was made

defendant of the sum agreed upon.

3. The defendant has not paid the money

[As in paras. 1 and 5 of Form No. 1, and Relief claimed]

The Code of Civil Procedure 1908.

(The First Schedule — Appendix A. — Pleadings.)

No 14

NOT DELIVERING GOODS SOLD.

(Title)

1. C
 and
 [one
 very

1. B, the above-named plaintiff, states as follows, —

2. On the [said] day the plaintiff was ready and willing, and offered, to pay the defendant the said sum upon delivery of the goods.

[As in paras. 1 and 5 of Form No. 1, and Relief claimed.]

No 15.

WRONGFUL DISMISSAL

(Title.)

A B, the above-named plaintiff, states as follows, —

1 On the _____ day of _____ 19____, the plaintiff and defendant mutually agreed that the plaintiff should serve the defendant as an accountant, or in the capacity of foreman or as the case may be, and that the defendant should employ the plaintiff as such for the term of one year and pay for his services _____ rupees monthly.

2 On the _____ day of _____ 19____, the plaintiff entered upon the service of the defendant and has ever since been and still is ready and willing to continue in such service during the remainder of the said year whereof the defendant always has had notice.

3 On the _____ day of _____ 19____, the defendant wrongfully discharged the plaintiff and refused to permit him to serve as aforesaid or to pay him for his services.

[As in paras. 1 and 2 of Form No 1 and Relief claimed]

No 16.

BREACH OF CONTRACT TO SERVE

(Title.)

A B, the above-named plaintiff states as follows —

1 On the _____ day of _____ 19____, the plaintiff and defendant mutually agreed that the plaintiff should employ the defendant at an [annual salary of _____ rupees, and that the defendant should serve the plaintiff as an artist] for the term of one year.

2. The plaintiff has always been ready and willing to perform his part of the agreement and on the _____ day of _____ 19____, offered so to do.

3. The defendant [entered upon] the service of the plaintiff on the above-mentioned day, but afterwards, on the day of 19 , he refused to serve the plaintiff as aforesaid
[As in paras. 1 and 5 of Form No. 1, and Relief claimed]

No. 17

AGAINST A BUILDER FOR DEFECTIVE WORKMANSHIP.

(Title)

A. B., the above-named plaintiff, states as follows :—

1 On the day of 19 , the plaintiff and defendant entered into an agreement, and the original document is hereto annexed *[Or state the tenor of the contract.]*

[2 The plaintiff duly performed all the conditions of the agreement on his part]

3 The defendant [built the house referred to in the agreement in a bad and unworkmanlike manner]

[As in paras. 1 and 5 of Form No. 1, and Relief claimed]

No. 18

ON A BOND FOR THE FIDELITY OF A CLERK.

(Title)

A. B., the above-named plaintiff, states as follows :—

1. On the day of 16 , the plaintiff took E. F. into his employment as a clerk

2. In consideration thereof on the day of 16 , the defendant agreed with the plaintiff that if E. F. should not faithfully perform his duties as a clerk to the plaintiff, or should fail to account to the plaintiff for all monies, evidences of debt or other property received by him for the use of the plaintiff, the defendant would pay to the plaintiff whatever loss he might sustain by reason thereof, not exceeding rupees

[As in paras. 1 and 5 of Form No. 1, and Relief claimed]

and should justly account to the plaintiff for all monies, except of debt on other property which should be at any time held by him in trust for the plaintiff, the bond should be void]

[Or, 2 In consideration thereof, on the same date the defendant executed a bond in favour of the plaintiff, and the original instrument is hereto annexed]

I Between the day of 16 and 17
day of 10 E. F. received money and other
property, amounting to the value of rupees, 4
the use of the plaintiff, for which sum he has not accounted to me
and the same still remains due and unpaid

(As in paras 1 and 2 of Form No 1, and Relief claimed)

No 19

BY TENANTS AGAINST LANDLORD, WITH SPECIAL DAMAGES (Title.)

1 B, the above-named plaintiff, states as follows. —

1. On the day of 16 , the defendant by a registered instrument, let to the plaintiff [the house No. Street] for the term of years, contracting with the plaintiff that he the plaintiff, and his legal representatives should quietly enjoy possession thereof for the said term.

2. All conditions were fulfilled and all things happened necessary to entitle the plaintiff to maintain his suit.

3 On the day of during the said term E. F. who was the lawful owner of the said house, lawfully evicted the plaintiff therefrom, and still withholds the possession thereof from him.

4. The plaintiff was thereby [prevented from continuing his business of a tailor at the said place, was compelled to expend rupees in moving, and lost the custom of G. H. and I. by such removal]

(As in paras 1 and 2 of Form No 1, and Relief claimed)

No. 20.

ON AN AGREEMENT OF INDEMNITY

(Title)

A. B., the above-named plaintiff, states as follows :—

1. On the day of 16 , the plaintiff and

that might be made upon him on account of any indebtedness of the firm.

2 The plaintiff duly performed all the conditions of the agreement on his part

3. On the day of 19 , [a judgment was recovered against the plaintiff and defendant by E. F., in the High Court of Judicature at , upon a debt due from the firm to E. F., and on the day of 19 ,] the plaintiff paid rupees [in satisfaction of the same].

4 The defendant has not paid the same to the plaintiff
[As in *paris* 1 and 3 of Form No. 1, and Relief claimed.]

No 21.

PROCURING PROPERTY BY FRAUD

(Title)

A B, the above-named plaintiff, states as follows :—

1 On the day of 19 , the defendant, for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that [he the defendant, was solvent, and worth rupees over all his liabilities]

2 The plaintiff was thereby induced to sell [and deliver] to the defendant, [dry goods] of the value of rupees.

3. The said representations were false [or, state the particular falsehoods] and were then known by the defendant to be so

1. The defendant has not paid for the goods {Or, if goods were not delivered}. The plaintiff, in preparing and packing the goods and procuring their restoration, expended rupees.

[As in paras. 1 and 5 of Form No. 1, and Relief claimed.]

No. 22.

FRAUDULENTLY PROCURING CREDIT TO BE GIVEN TO ANOTHER PERSON.

(Title.)

1. *B.* the above-named plaintiff states as follows:—

1. On the _____ day of _____ 19____, the defendant represented to the plaintiff that *E. F.* was solvent and in good credit, and worth _____ rupees over all his liabilities, or that *E. F.* then held a responsible situation and was in good circumstances, and might safely be trusted with goods on credit.

2. The plaintiff was thereby induced to sell to *E. F.* [merchandise] of the value of _____ rupees [on _____ months credit].

3. The said representations were false and were then known by the defendant to be so, and were made by him with intent to deceive and defraud the plaintiff for, to deceive and injure the plaintiff.

4. *E. F.* did not pay for the said goods at the expiration of the credit aforesaid or has not paid for the said rice, and the plaintiff has wholly lost the same.

[As in paras. 1 and 5 of Form No. 1 and Relief claimed.]

No. 23

POLLUTING THE WATER UNDER THE PLAINTIFF'S LAND

(Title.)

1. *B.*, the above-named plaintiff, states as follows:—

1. The plaintiff is, and at all the times hereinafter mentioned was, possessed of certain land called _____ and situate in _____, and of a well therein, and of water in the well, and was

and to the use and benefit of the well and of the water therein, and to have certain springs and streams of water which flowed and ran into the well to supply the same to flow or run without being fouled or polluted

2. On the day of 19 , the defendant wrongfully fouled and polluted the well and the water therein and the springs and streams of water which flowed into the well.

3. In consequence the water in the well became impure and unfit for domestic and other necessary purposes, and the plaintiff and his family are deprived of the use and benefit of the well and water,

[1s in paras 1 and 3 of Form No. 1, and Relief claimed.]

No 24

CARRYING ON A NOXIOUS MANUFACTURE.

(Title)

1. *B*, the above-named plaintiff, states as follows —

1. The plaintiff is, and at all the times hereinafter mentioned was, possessed of certain lands called , situate in .

2. Ever since the day of 19 , the defendant has wrongfully caused to issue from certain smelting works carried on by the defendant large quantities of offensive and unwholesome smoke and other vapours and noxious matter, which spread themselves over and upon the said lands, and settled on the surface of the lands

3. Thereby the trees, hedges, herbage and crops of the in ends

vented from having so beneficial and healthy a use and occupation of the lands as he otherwise would have had

[1s in paras 1 and 3 of Form No. 1, and Relief claimed.]

No 25.

OBSTRUCTING A RIGHT OF WAY.

(Title.)

1 B, the above-named plaintiff states as follows.

1 The plaintiff is and at the time hereinafter mentioned possessed of a house in the village of

2 He was entitled to a right of way from the [house] certain field to a public highway and back again from the way over the field to the house, for himself and his servants vehicles or on foot at all times of the year

On the day of 19 , defect wrongfully obstructed the said way so that the plaintiff could pass with vehicles or on foot, or in any manner] along the [and has ever since wrongfully obstructed the same],

1 (State special damage if any)

As in paras. 1 and 2 of Form No 1 and Relief claimed.]

No. 26.

OBSTRUCTING A HIGHWAY

(Title.)

1. The defendant wrongfully dug a trench and heaped up earth and stones in the public highway leading from so as to obstruct it

2. Thereby the plaintiff, while lawfully passing along the said highway, fell over the said earth and stones [or into the said trench] and broke his arm, and suffered great pain, and was prevented from attending to his business for a long time, and incurred expense for medical attendance.

[As in paras. 1 and 2 of Form No 1, and Relief claimed.]

No. 27.

DIVERTING A WATER-COURSE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

tioned was,
, in

2. By reason of such possession the plaintiff was entitled to flow of the stream for working the mill.

3. On the day of 19 , the defendant, by cutting the bank of the stream, wrongfully diverted the water thereof, so that less water ran into the plaintiff's mill.

4. By reason thereof the plaintiff has been unable to grind more than sacks per day, whereas, before the said diversion of water, he was able to grind sacks per day.

[As in paras 4 and 5 of Form No. 1. and Relief claimed.]

 No 28.
OBSTRUCTING A RIGHT TO USE WATER FOR IRRIGATION.

(Title)

A B., the above-named plaintiff, states as follows :—

1 Plaintiff is, and was at the time hereinafter mentioned, possessed of certain lands situate, etc, and entitled to take and use a portion of the water of a certain stream for irrigating the said lands.

On the day of 19 ,
ted the
water a
stream.

[As in paras. 4 and 5 of Form No. 1, Relief claimed]

No. 29.

INJURIES CAUSED BY NEGLIGENCE ON A RAILROAD.

(Title.)

A B, the above-named plaintiff, states as follows:—

1. On the day of 19 , the defendants were
common carriers of passengers by railway between 2/

2 On that day the plaintiff was a passenger in one of the carriages of the defendant on the said railway.

3. While he was such passenger, at [or near the station of] between the stations of [and] a collision occurred on the said railway, caused by the negligence and [of the plaintiff]

attendance, and is permanently disabled from carrying on his former business as [a salesman].

(As in paras. 4 and 5 of Form No. 1, and Relief claimed.)

(Or thus --2 On that day defendant by their servants so negligently and unskillfully drove and managed an engine and a train of carriages attached thereto upon and along the defendant's railway which the plaintiff was then lawfully crossing, that the said engine and train were driven and struck against the plaintiff, whereby, etc., as in para 3.]

No. 30.

INJURIES CAUSED BY NEGLIGENT DRIVING.

(Title.)

A. B. the above-named plaintiff, state as follows :—

1. The plaintiff is a shoemaker, carrying on business at
The defendant is a merchant of

2. On the day of , 19 , the plaintiff was walking southward along Chowringhee, in the City of Calcutta, at about

o'clock in the afternoon. He was obliged to cross Middleton Street, which is a street running into Chowringhee at right angles. While he was crossing this street, and just before he could reach the foot-pavement on the further side thereof a carriage of the defendant's, drawn by two horses, under the charge and control of the defendant's servants, was out any warning turned at a Middleton Street into Chowringhee, and struck the plaintiff and knocked him down, and he was much trampled by the horses.

3. By the blow and fall and trampling the plaintiff's left arm was broken and he was bruised and injured on the side and back, as well as internally, and in consequence thereof the plaintiff was for four months ill and is suffering and unable to attend to his business, and incurred heavy medical and other expenses, and sustained great loss of business and profits.

[As in paras. 4 and 5 of Form No. 1 and Relief claimed.]

No. 31.

FOR MALICIOUS PROSECUTION.

A. B. the above-named plaintiff, states as follows.—

1. On the day of 19 , the defendant obtained a warrant of arrest from [a Magistrate of the said city, or as the case may be] on a charge of , and the plaintiff was arrested thereon, and imprisoned for [days, or hours, and gave bail in the sum of rupees to obtain his release].

2. In so doing the defendant acted maliciously and without reasonable or probable cause.

3. On the day of 19 , the Magistrate dismissed the complaint of the defendant and acquitted the plaintiff.

4. Many persons, whose names are unknown to the plaintiff, hearing of the arrest, and supposing the plaintiff to be a criminal, have ceased to do business with him; or, in consequence of the said arrest, the plaintiff lost his situation as clerk to one E. F.;

or in consequence the plaintiff suffered pain of body and mind and was prevented ~~from transacting~~ in his business and was injured in his credit, and the said imprisonment complaint.

[As in paras. 4 and 5 of Form No 1, and Relief claimed.]

No. 32

MOVEABLES WRONGFULLY DETAINED

(Title.)

A. B. the above-named plaintiff, states as follows.—

1. On the day of 19 , plaintiff owned [or state facts showing a right to the possession] the goods mentioned in the schedule hereto annexed [or describe the goods], the estimated value of which is rupees

2 From that day until the commencement of this suit the defendant has detained the same from the plaintiff

3 Before the commencement of the suit, to wit on the day of 19 the plaintiff demanded the same from the defendant, but he refused to deliver them.

[As in para. 4 and 5 of Form No 1.]

6. The plaintiff claims—

(1) delivery of the said goods, or rupees, in case delivery cannot be had,

(2) rupees compensation for the detention thereof

The Schedule.

No. 33.

AGAINST A FRAUDULENT PURCHASER AND HIS TRANSFEREE WITH NOTICE.

(Title.)

A. B. the above-named plaintiff, states as follows :

1. On the day of 19 , the defendant C. D., for the purpose of inducing the plaintiff to sell him certain

, represented to the plaintiff that [he was solvent, and worth over all liabilities].

2. The plaintiff was hereby induced to sell and deliver to C. D., [one hundred boxes of tea], the estimated value of which is rupees.

3. The said representations, were false, and were then known by C. D. to be so, or, at the time of making the said representations, C. D. was insolvent, and knew himself to be so].

4. C. D. afterwards transferred the said goods to the defendant E. F. without consideration [or who had notice of the falsity of the representation].

[As in paras. 4 and 5 of Form No. 1.]

7 The plaintiff claims —

(1) delivery of the said goods, or rupees, in case delivery cannot be had ;

(2) rupees compensation for the detention thereof.

No. 34.

RESCISSION OF A CONTRACT ON THE GROUND OF MISTAKE

(Title)

A. B, the above-named plaintiff, states as follows :—

1. On the day of 19 the plaintiff represented to the defendant that the said piece of ground contained in fact only [five bighas.]

2. The plaintiff was thereby induced to purchase the same at the price of rupees in the belief that the said representation was true, and signed an agreement, of which the original is hereto annexed. But the land has not been transferred to him.

3. On the day of 19 the plaintiff paid the defendant rupees as part of the purchase-money

4. That the said piece of ground contained in fact only [five bighas.]

As in paras. 4 and 5 of Form No. 1.]

7. The plaintiff claims—

- (1) rupees, with interest from the day of 19
- (2) that the said agreement be delivered up and cancelled

No. 35.

AN INJUNCTION RESTRAINING WASTE.

(Title.)

A B, the above-named plaintiff, states as follows :

1. The plaintiff is the absolute owner of [describe the property].

2. The defendant is in possession of the same under a lease from the plaintiff.

3. The defendant has [cut down a number of valuable trees and threatens to cut down many more for the purpose of sale without the consent of the plaintiff.

As in paras. 4 and 5 of Form No. 1.]

6. The plaintiff claims that the defendant be restrained by injunction from committing or permitting any further waste on the said premises

[Pecuniary compensation may also be claimed]

No. 36.

INJUNCTION RESTRAINING NUISANCE.

A. B., the above-named plaintiff, states as follows :—

1. Plaintiff is and has been for many years past the owner of the premises mentioned in the schedule to this petition.

On the day of 19 at that appeared upon his said plot and from that day

le to be brought and killed there [and has caused the blood and offal to be thrown into the street opposite the said house of the plaintiff].

4. In consequence the plaintiff has been compelled to abandon the said house, and has been unable to rent the same].

[As in paras. 4 and 5 of Form No. 1.]

The plaintiff claims that the defendant be restrained by injunction from committing or permitting any further nuisance.

No. 37.

PUBLIC NUISANCE.

A. B., the above-named plaintiff, states as follows :—

1. The defendant has wrongly heaped up earth and stones on a public road known as...Street at ... so as to obstruct the passage of the public along the same and threatens and intends, unless restrained from so doing, to continue and repeat the said wrongful act.

2. The plaintiff have obtained the consent in writing of the Advocate General [or of the Collector or other officer appointed in this behalf] to the institution of this suit.

[As in paras 4 and 5 of Form No. 1.]

The plaintiff claims—

(1) a declaration that the defendant is not entitled to obstruct the passage of the public along the said public road :

No. 38

AGAINST THE DIVERSION OF A WATER-COURSE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

[As in Form No. 27.]

The plaintiff claims that the defendant be restrained by injunction from diverting the water as aforesaid.

No. 39.

**RESTORATION OF MOVEABLE PROPERTY THREATENED
WITH DESTRUCTION, AND FOR AN INJUNCTION.**

(Titte.)

A. B., the above-named plaintiff, states as follows :—

1. Plaintiff is the owner of (a painting of eminent painter) facts showing that the property is of a kind that cannot be replaced by money].

2. On the _____ day of _____ 19____, he deposited the same for safe keeping with the defendant.

3. On the _____ day of _____ 19____, he demanded the same from the defendant and offered to pay all reasonable charges for the storage of the same.

4. The defendant refuses to deliver the same to the plaintiff and threatens to conceal, dispose of, cut or injure the same required to deliver it up.

5. No pecuniary compensation would be an adequate compensation to the plaintiff for loss of the [painting].

[As in paras. 4 and 5 of Form No. 1.]

6. The plaintiff claims—

(1) that the defendant be restrained by injunction from disposing of, injuring or concealing the said painting;

(2) that he be compelled to deliver the same to the plaintiff

INTERPLEADER

(Title)

A. B., the above-named plaintiff, states as follows:—

1. Before the date of the claims hereinafter mentioned G. H. with the plaintiff [*describe the property*] for [safe-keeping].
2. The defendant C. D. claims the same [under an alleged argument thereof to him from G. H.].
3. The defendant E F. also claims the same [under an order of G. H. transferring the same to him].
4. The plaintiff is ignorant of the respective rights of the defendants.
5. He has no claim upon the said property other than for charges and costs, and is ready and willing to deliver it to such persons as the Court shall direct.
6. The suit is not brought by collusion with either of the defendants.

[As in paras. 4 and 5 of Form No. 1]

9. The plaintiff claims—

- (1) that the defendants be restrained, by injunction, from taking any proceedings against the plaintiff in relation thereto;
- (2) that they be required to interplead together concerning their claims to the said property;
- (3) that some person be authorized to receive the said property pending such litigation;
- (4) that upon delivering the same to such (person) the plaintiff be discharged from all liability to either of the defendants in relation thereto.

No. 41.

**ADMINISTRATION BY CREDITOR ON BEHALF OF HIMSELF
AND ALL OTHER CREDITORS**
(Title.)

A. B., the above-named plaintiff, states as follows.—

1 E F., late of _____, was at the time of his death, and his estate still is, indebted to the plaintiff in the sum of _____
[here insert nature of debt and security, if any].

2 E F. died on or about the _____ day of _____
By his last will, dated the _____ day of _____
he appointed C. D. his executor [or devised his estate in trust
etc., or died intestate, as the case may be]

3. The will was proved by C. D. [or letters of administration
were granted, etc.].

4. The defendant has possessed himself of the moveable [or
immoveable] or the proceeds of the immoveable property
E F., and has not paid the plaintiff his debt.

As in paras. 4 and 5 of Form No. 1.

7. The plaintiff claims that an account may be taken of the
moveable [and immoveable] property of E. F., deceased, and that
the same may be administered under the decree of the Court

No. 42.

ADMINISTRATION BY SPECIFIC LEGATEE.
(Title.)

[Alter form No. 41 thus]—

[Omit paragraph 1 and commence paragraph 2] E. F., late of _____
died on or about the _____ day of _____ By his
last will, dated the _____ day of _____
he appointed C. D. his executor, and bequeathed to the plaintiff
[here state the specific legacy].

For paragraph 4 substitute—

The defendant is in possession of the moveable property of F., and, amongst other things, of the said [here name the subject of the specific bequest].

For the commencement of paragraph 7 substitute—

The plaintiff claims that the defendant may be ordered to give to him the said [here name the subject of the specific], or that etc

No 43

ADMINISTRATION BY PECUNIARY LEGATEE.

(Title.)

Alter Form No 41 thus :—

[Omit paragraph 1 and substitute for paragraph 2] E. F., late of _____, died on or about the _____ day of _____, By his will, dated the _____ day of _____, he appointed D. his executor, and bequeathed to the plaintiff a legacy of _____ rupees.

In paragraph 4 substitute " legacy" for " debt

Another form.

(Title.)

E. F., the above-named plaintiff, states as follows :—

1. A. B. of K. in the _____ died on the _____ day of _____ By his last will, dated the _____ day of _____, he appointed defendant and M. N [who died in the testator's lifetime] executors, and bequeathed his property, whether moveable or immoveable, to his executors in trust, to pay the rents and interest thereof to the plaintiff for his life; and after his decease, in default of his having a son who should attain twenty-one, daughter who should attain that age or marry, upon trust to his immoveable property for the person who would be the heir-at-law, and as to his moveable property for the

persons who would be the testator's next-of-kin if he had been intestate at the time of the death of the plaintiff, and such persons as would be his issue as aforesaid.

2. The will was proved by the defendant on the day of the death of the testator. The plaintiff has not been married.

3. The testator was at his death entitled to moveable and immoveable property; the defendant entered into the receipt for the rents of the immoveable property and got in the moveable property; he had sold some part of the immoveable property
[As in paras 4 and 5 of form No. 1.]

6. The plaintiff claims—

- (1) to have the moveable and immoveable property of the testator administered in the Court, and for that purpose to have all proper directions given and accounts taken,
- (2) such further or other relief as the nature of the case may require.

No. 44.

EXECUTION OF TRUSTS.

(Title.)

A B, the above-named plaintiff, states as follows:—

1. He is one of the trustees under an instrument of settlement bearing date on or about the day of month of the year upon the marriage of E. F. and G. H., the father and mother of the defendant [or an instrument of transfer of the estate and effects of E. F. for the benefit of C. D., the defendant, and the other co-trustees of E. F.]

2. A. B. has taken upon himself the burden of the said trust and is in possession of [or of the proceeds of] the moveable and immoveable property transferred by the said instrument.

3. C. D. claims to be entitled to a beneficial interest under the instrument.

[As in paras. 4 and 5 of Form No. 1.]

6. The plaintiff is desirous to account for all the rents and profits of the said immoveable property [and the proceeds of the sale of the said, or of part of the said, immoveable property, or the proceeds of the sale of, or of part of, the said immoveable property, or the profits accruing to the plaintiff as such in the execution of the said trust]; and he prays that the defendant will take the accounts of the said trust, and also that the

D. may show good cause to the contrary.

[*N. B.*—Where the suit is by a beneficiary, the plaint may be framed, *mutatis mutandis*, on the plaint by a legatee.]

No. 45.

FORECLOUSER OR SALE

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. The plaintiff is mortgagee of lands belonging to the defendant.
2. The following are the particulars of the mortgage:—
 - (a) (date);
 - (b) (names of mortgagor and mortgagee);
 - (c) (sum secured)
 - (d) (rate of interest);
 - (e) (property subject to mortgage);
 - (f) (amount now due);
 - (g) (if the plaintiff's title is derivative, state shortly the transfers or devolution under which he claims.)

(If the plaintiff is mortgagee in possession, add)

3. The plaintiff took possession of the mortgaged property on the _____ day of _____ and is ready to account as mortgagor in possession from that time.

[As in paras. 4 and 5 of Form No. I.]

6 The plaintiff claims:—

(1) payment, or in default [sale or] foreclosure [and possession],

[Where Order 34, rule 6, applies]

(2) in case the proceeds of the sale are found to be insufficient to pay the amount due to the plaintiff, then the liberty be reserved to the plaintiff to apply for a decree for the balance

No 46.

REDEMPTION.

(Title)

A B, the above-named plaintiff, states as follows:—

1 The plaintiff is mortgagor of lands of which the defendant is mortgagee

2 The following are the particulars of the mortgage:—

(a) (date);

(b) (names of mortgagor and mortgagee);

(c) (sum secured);

(d) (rate of interest);

(e) (property subject to mortgage);

(f) (if the plaintiff's title is derivative, state shortly the transfers or devolution under which he claims)

If the defendant is mortgagee in possession, add

3. The defendant has taken possession [or has received the rents] of the mortgaged property.

[As in paras. 4 and 5 of Form No. I.]

6. The plaintiff claims to redeem the said property and to have the same reconveyed to him [and to have possession thereof].

No. 47.

SPECIFIC PERFORMANCE (No. 1).*(Title.)**A. B.*, the above-named plaintiff, states as follows :—

1. By an agreement dated the _____ day of _____ and signed by the defendant, he contracted to buy of [or sell to] the plaintiff certain immoveable property described and referred to, for the sum of _____ rupees.
2. The plaintiff has applied to the defendant specifically to perform the agreement on his part, but the defendant has not
so
3. The plaintiff has been and still is ready and willing specifically to perform the agreement on his part of which the defendant had notice.

[As in paras. 4 and 5 of Form No. I.]

6. The plaintiff claims that the Court will order the defendant specifically to perform the agreement and to do all acts necessary put the plaintiff in full possession of the said property [or to effect a transfer and possession of the said property] and to pay costs of the suit.

No 48.

SPECIFIC PERFORMANCE (No. 2).*(Title)**A. B.*, the above-named plaintiff, states as follows :—

1. On the _____ day of _____ 19____, plaintiff and defendant entered into an agreement, in writing the original document is hereto annexed.
The defendant was absolutely entitled to the immoveable property described in the agreement.

2. On the _____ day of _____ 19____
 the plaintiff tendered _____ rupees to the defendant
 and demanded a transfer of the said property by a sufficient
 instrument

3. On the _____ day of _____ 19____
 the plaintiff again demanded such transfer [or the defendant refused
 to transfer the same to the plaintiff].

4. The defendant has not executed any instruments of transfer.

5. The plaintiff is still ready and willing to pay the purchase
 money of the said property to the defendant.

[As in paras. 4 and 5 of Form No. I.]

8. The plaintiff claims—

(1) that the defendant transfer the said property to the
 plaintiff by a sufficient instrument [following the
 terms of the agreement];

(2) _____ rupees compensation for withholding the same.

No 49

PARTNERSHIP

(Title)

A B, the above-named plaintiff, states as follows.—

1. He and C D, the defendant have been for _____
 [or months] past carrying on business together under articles of
 partnership in writing. [or under a deed, or under a verbal
 agreement].

2. Several disputes and differences have arisen between the
 parties, and the plaintiff is bound to state the following
 breaches of the partnership articles.—

(1)

(2)

(3)

}

[As in paras 4 and 5 of Form No. I.]

The plaintiff claims -

(1) dissolution of the partnership,

(2) that accounts be taken ;

(3) that a receiver be appointed

claim
fact

(1) WRITTEN STATEMENTS.

General defences.

Denial	<p>The defendant denies that (<i>set out facts</i>)</p> <p>The defendant does not admit that (<i>set out facts</i>)</p> <p>The defendant admits that but says that</p>
Protest	<p>The defendant denies that he is a partner in the defendant firm of.</p> <p>The defendant denies that he made the contract alleged or any contract with the plaintiff</p> <p>The defendant denies that he contracted with the plaintiff as alleged or at all.</p> <p>The defendant admits assets but not the plaintiff's claim</p> <p>The defendant denies that the plaintiff sold to him the goods mentioned in the plaint or any of them.</p>
Limitation	<p>The suit is barred by article or article of the second schedule to the Indian Limitation Act, 1877.</p>
Jurisdiction	<p>The Court has no jurisdiction to hear the suit on the ground that (<i>set forth the grounds.</i>)</p> <p>On the day of a diamond ring was delivered by the defendant to and accepted by the plaintiff in discharge of the alleged cause of action</p>

Insolvency	The defendant has been adjudged an insolvent
	The plaintiff before the institution of the suit was adjudged an insolvent and the right to sue vested in the receiver.
Minority,	The defendant was a minor at the time of making the alleged contract.
Payment into Court	The defendant as to the whole claim (or as to Rs _____ part of the money claimed, or as the case may be) has paid into Court Rs _____ and says that this sum is enough to satisfy the plaintiff's claim (or the part aforesaid).
Performance re-mitted.	The performance of the promise alleged was re-mitted on the _____ (date).
Rescission	The contract was rescinded by agreement between the plaintiff and defendant
Res judicata,	The plaintiff's claim is barred by the decree in suit (give the reference)
Estoppel	The plaintiff is estopped from denying the truth of _____ statement as to which estoppel is claimed () because there state the facts relied on as creating the estoppel).
Ground of defence subsequent to institution of suit	Since the institution of the suit, that is to say, on the _____ day of _____ (set out facts).

No 1.

DEFENCE IN SUITS FOR GOODS SOLD AND DELIVERED

1. The defendant did not order the goods.
2. The goods were not delivered to the defendant
3. The price was not Rs _____

[or]

- | | | | | | |
|----|---|-----------------------|-----------|---|----|
| 4. | { | Except as to Rs _____ | , same as | { | 1. |
| 5. | | | | | 2. |
| 6. | | | | | 3. |

7. The defendant [or A. B., the defendant's agent] satisfied the claim by payment before suit to the plaintiff [or to C. D., the plaintiff's agent] on the _____ day of _____ 19 ____.

8. The defendant satisfied the claim by payment after suit to the plaintiff on the _____ day of _____ 19 ____.

No. 2.

DEFENCE IN SUITS ON BONDS

1. The bond is not the defendant's bond.

2. The defendant made payment to the plaintiff on the day according to the condition of the bond.

3. The defendant made payment to the plaintiff after the day named and before suit of the principal and interest mentioned in the bond.

No 3

DEFENCE IN SUITS ON GUARANTEES

1. The principal satisfied the claim by payment before suit.

2. The defendant was released by the plaintiff giving time to the principal debtor in pursuance of a binding agreement.

No 4

DEFENCE IN ANY SUIT FOR DEBT.

1. As to Rs. 200 of the money claimed, the defendant is entitled to set off for goods sold and delivered by the defendant to the plaintiff

Particulars are as follows —

	Rs.
1907, January 25th	150 .
.. February 1st	50
	<hr/>
	200

2. As to the whole [or as to Rs. _____, part of the money claimed] the defendant made tender before suit of Rs. _____ and has paid the same into Court

No. 5

DEFENCE IN SUITS FOR INJURIES CAUSED BY NEGLIGENT DRIVING.

1 The defendant denies that the carriage mentioned in the plaint was the defendant's carriage, and that it was under the charge or control of the defendant's servants. The carriage belonged to _____ of _____ Street, Calcutta, by _____ stable keepers employed by the defendant to supply him with carriages and horses, and the person under whose charge and control the said carriage was, was the servant of the said _____.

2 The defendant does not admit that the said carriage was turned out of Middleton Street, either negligently, suddenly or without warning, or at a rapid or dangerous pace.

3 The defendant says the plaintiff might and could, by the exercise of reasonable care and diligence, have seen the said carriage approaching him, and avoided any collision with it.

4 The defendant does not admit the statements contained in the third paragraph of the plaint.

 No. 6
DEFENCE IN ALL SUITS FOR WRONGS.

1 Denial of the several acts [or matters] complained of.

 No. 7.
DEFENCE IN SUITS FOR DETENTION OF GOODS

1. The goods were not the property of the plaintiff.

2 The goods were detained for a lien to which the defendant was entitled.

Particulars are as follows —

1907, May 3rd. To carriage of the goods claimed from _____ to Calcutta.

15 maunds at Rs 2 per maund Rs

No 8.

DEFENCE IN SUITS FOR INFRINGEMENT OF COPYRIGHT.

- 1 The plaintiff is not the author [*assignee*]
 - 2 The book was not registered.
 - 3 The defendant did not infringe
-

No 9.

DEFENCE IN SUITS FOR INFRINGEMENT OF TRADE MARK.

1. The trade mark is not the plaintiff's.
 2. The alleged trade mark is not a trade mark.
 - 3 The defendant did not infringe
-

No 10

DEFENCES IN SUITS RELATING TO NUISANCES

1 The plaintiff's lights are not ancient [or deny his other alleged prescriptive rights]

2 The plaintiff's lights will not be materially interfered with by the defendant's buildings

3. The defendant denies that he or his servants pollute the water [or do what is complained of]

[If the defendant claims the right by prescription or otherwise to do what is complained of, he must say so, and must state the grounds of the claim, i e., whether by prescription, grant or what]

4 The plaintiff has been guilty of laches of which the following are particulars -

1870 Plaintiff's mill began to work.

1871 Plaintiff came into possession

1883. First complaint.

5. As to the plaintiff's claim for damages the defendant will rely on the above grounds of defence, and says that the acts complained of have not produced any damage to the plaintiff. [If other grounds are relied on, they must be stated, e g, limitation as to past damage]

No. 11.

DEFENCE TO SUIT FOR FORECLOSURE.

- 1 The defendant did not execute the mortgage.
- 2 The mortgage was not transferred to the plaintiff (if more than one transfer is alleged, say which is denied).
- 3 The suit is barred by article _____ of the second schedule to the Indian Limitation Act, 1877
- 4 The following payments have been made, viz:—

					Rs.
(Insert date)	_____	1,000
(Insert date)	_____	500

- 5 The plaintiff took possession on the _____ of _____, and has received the rents ever since
- 6 That plaintiff released the debt on the _____ of _____
7. The defendant transferred all his interest to A. B by a document dated _____

No. 12.

DEFENCE TO SUIT FOR REDEMPTION.

1. The plaintiff's right to redeem is barred by article _____ of the second schedule to the Indian Limitation Act, 1877.
- 2 The plaintiff transferred all interest in the property to A. B.
- 3 The defendant, by a document dated the _____ transferred all his interest in the mortgage-debt and property comprised in the mortgage to A. B.
- 4 The defendant never took possession of the mortgaged property, or received the rents thereof.

(If the defendant admits possession for a time only, he should state the time and deny possession beyond what he admits.)

No. 13.

DEFENCE TO SUIT FOR SPECIFIC PERFORMANCE

1. The defendant did not enter into the agreement.

2. A. B. was not the agent of the defendant (*if alleged by plaintiff*).

3 The plaintiff has not performed the following conditions—(*Conditions*).

4. The defendant did not—(*alleged acts of part performance*).

5. The plaintiff's title to the property agreed to be sold is not such as the defendant is bound to accept by reasons of the following matter—(*State why*).

6. The agreement is uncertain in the following respects—(*State them*)

7. (or) The plaintiff has been guilty of delay ;

8 (or) The plaintiff has been guilty of fraud (or misrepresentation).

9 (or) The agreement is unfair ;

10. (or) The agreement was entered into by mistake.

11 The following are particulars of (7), (8), (9), (10) (or as the case may be)

12. The agreement was rescinded under Conditions of Sale, No. 11 (or by mutual agreement)

In cases where damages are claimed and the defendant disputes his liability to damages, he must deny the agreement or the alleged breaches, or show whatever other ground of defence he intends to rely on, e g, the Indian Limitation Act, accord and satisfaction, release, fraud, etc.)

No 14.

DEFENCE IN ADMINISTRATION SUIT BY PECUNIARY LEGATEE

2. The defendant applied the whole of the said sums and the sum of Rs. which the defendant received from rents of the

immovable property in the payment of the funeral and testamentary expenses and some of the debts of the testator.

3. The defendant made up his accounts and sent a copy thereof to the plaintiff on the day of 19 , and offered the plaintiff free access to the vouchers to verify such accounts, but declined to avail himself of the defendant's offer.

4. The defendant submits that the plaintiff ought to pay the costs of this suit.

No 15

PROBATE OF WILL IN SOLEMN FORM.

1. The said will and codicil of the deceased were not duly executed according to the provisions of the Indian Succession Act, 1865 [or of the Hindu Wills Act, 1870]

2. The deceased at the time the said will and codicil respectively purport to have been executed, was not of sound mind, memory and understanding.

3. The execution of the said will and codicil was obtained by the undue influence of the plaintiff [and others acting with him whose names are at present unknown to the defendant]

4. The execution of the said will and codicil was obtained by the fraud of the plaintiff, such fraud, so far as is within defendant's present knowledge being [state the nature of the fraud].

may be } will and
proof, [or
the cod-

5. The deceased made his true last will, dated the 1st January 1873, and thereby appointed the defendant sole executor thereof.

The defendant claims :-

(1) that the Court will pronounce against the said will and codicil propounded by the plaintiff.

(2) that the Court will decree probate of the will of the deceased, dated the 1st January, 1873, in solemn form of law.

No 16.

PARTICULARS (O. 6, r. 5.)

(Title of suit.)

particulars

The following are the particulars *(here state the matters in respect of which particulars have been ordered)* delivered pursuant to the order of the _____ of _____

(Here set out the particulars ordered in paragraphs if necessary.)

APPENDIX B.

PROCESS

No 1

SUMMONS FOR DISPOSAL OF SUIT (O. S. IT L.)

(Title)

To

[Name description and place of residence]

WHEREAS

has instituted a suit against you for
you are hereby summoned to appear in this Court in person or by
a pleader duly instructed and able to answer all material questions
relating to the suit or who shall be accompanied by some person
able to answer all such questions, on the _____ day of
19____, at _____ o'clock in the _____ noon, to answer the
claim, and as the _____ is appointed for
the final disposal _____
that day all the _____
ments upon which you intend to rely in support of your defence.

Take notice that, in default of your appearance on the day be-
fore mentioned, the suit will be heard and determined in your
absence

GIVEN under my hand and the seal of the Court, this
day of _____ 19____

Judge.

NOTICE — Should you apprehend your witnesses will not attend
of their own accord, you can have a summons
from this Court to compel the attendance of any
witnesses to depose

2. If you admit the claim, you should pay the money into Court together with the costs of the suit, to avoid execution of the decree, which may be against your person or property, or both

No 2

✓ **SUMMON FOR SETTLEMENT OF ISSUES** (O. 6. rr. I, 5)

(Title)

To

[Name, description and place of residence.]

WHEREAS

has instituted a suit against you for
you are hereby summoned to appear in this Court in person, or by a pleader duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some person able to answer all such questions, on the day of 19 at o'clock in the noon, to answer the claim, and you are directed to produce on that day all the documents upon which you intend to rely in support of your defence

Take notice that, in default of your appearance on the day before mentioned, the suit will be heard and determined in your absence

GIVEN under my hand and the seal of the Court, this day of 19

Judge

NOTICE —1 Should you apprehend your witnesses will not attend of their own accord, you can have a summons from this Court to compel the attendance of any witness, and the production of any document that you have a right to call on the witness to produce, on applying to the Court and on depo-

2.

.
against your person or property or both

No. 3

SUMMONS TO APPEAR IN PERSON. (O. S. r. 3)
(Title)

To [Name description and place of residence]

WHEREAS

has instituted a suit against you for

you are hereby summoned to appear in this Court in person at
the day of 19, at o'clock in the
noon, to answer the claim, and you are directed to pro-
duce on that day all the documents upon which you intend to rely
in support of your defence

Take notice that, in default of your appearance on the day be-
fore mentioned the suit will be heard and determined in your
absence

GIVEN under my hand and the seal of the Court, this
day of 19

Judge

No. 4

SUMMON IN SUMMARY SUIT ON NEGOTIABLE INSTRUMENT

(O. 37. r. 2)

(Title)

To

[Name description and place of residence]

WHEREAS

XANXVII of the
balance of prin-
of a of
summoned to ob-
the service hereof
time to cause an

whereof the plaintiff will be entitled at any time after the expira-
tion of such ten days to obtain a decree for any sum not exceeding
the sum of Rs. and the sum of Rs. for costs.

are hereby
days from
within such
In default

Leave to appear may be obtained on an application to the Court supported by affidavit or declaration showing that there is a defence to the suit on the merits, or that it is reasonable that you should be allowed to appear in the suit

GIVEN under my hand and the seal of the Court this
day of 19

Judge

No 5

**NOTICE TO PERSON WHO, THE COURT CONSIDERS, SHOULD BE
ADDED AS CO-PLAINTIFF (O. I, r. 10.)**

(Title)

To
[Name, description and place of residence.]

WHEREAS has instituted the above
suit against for
and whereas it appears necessary that you should be added as a
plaintiff in the said suit in order to enable the Court effectually
and completely to adjudicate upon and settle all the questions
involved.

Take notice that you should on or before day of
19 signify to this Court whether you consent
to be so added

GIVEN under my hand and the seal of the Court, this
day of 19

No 6.

**SUMMONS TO LEGAL REPRESENTATIVE OF A DECEASED
DEFENDANT (O. 22, r. 4.)**

(Title)

To
Whereas the plaintiff instituted a suit in this Court on
the day of 19 against the defendant who
is made an
represent
e made the
defendant in his stead

You are hereby summoned to attend in this Court on
day of 19 at a m. to defend the said suit, and
default of your appearance on the day specified, the said suit
be heard and determined in your absence.

Given under my hand and the seal of the Court, this
day of 19
Judge.

No. 7.
**ORDER FOR TRANSMISSION OF SUMMONS FOR SERVICE IN THE
JURISDICTION OF ANOTHER COURT.**
(O. 5, r. 21)
(Title.)

Whereas it is stated that
defendant
witness in the above suit is at present residing
It is ordered that a summons returnable on the day of
19, be forwarded to the Court of for service on
the said defendant with a duplicate of this proceeding.

The court fee of chargeable in respect to the summons
has been realized in this Court in stamps
Dated 19

Judge

No. 8
**ORDER FOR TRANSMISSION OF SUMMONS TO BE SERVED ON
A PRISONER.** (O. 5, r. 24)
(Title)

The Superintendent of the Jail at
Under the provisions of Order V, rule 24 of the Code of Civil
procedure, 1903, a summons in duplicate is herewith forwarded
for service on the defendant who is
prisoner in jail You are requested to cause a copy of the said

to be served upon the said defendant and to return the original to this Court signed by the said defendant, with a statement of service endorsed thereon by you.

Judge

No 9

**ORDER FOR TRANSMISSION OF SUMMONS TO BE SERVED
ON A PUBLIC SERVANT OR SOLDIER. (O. 11 r. 27, 28.)**

(Title)

To

Under the provisions of Order V, rule 27 [or 28, as the case may be], of the Code of Civil Procedure, 1908, a summons in duplicate is herewith forwarded for service on the defendant who is stated to be serving under you. You are requested to cause a copy of the said summons to be served upon the said defendant and to return the original to this Court signed by the said defendant, with a statement of service endorsed thereon by you.

Judge.

No 10

**TO ACCOMPANY RETURNS OF SUMMONS OF ANOTHER COURT.
(O 5, r. 23.)**

(Title)

Read proceeding from the forwarding for service on
in Suit No. of 19 of that Court.

Read Serving Officer's endorsement stating that the and
proof of the above having been duly taken by me on the oath of
and it is ordered that the be returned to the
with a copy of this proceeding.

Judge.

Note.—This form will be applicable to process other than summons, the service of which may have to be effected in the same manner.

No 11.

**AFFIDAVIT OF PROCESS-SERVER TO ACCOMPANY RETURN
OF A SUMMONS OR NOTICE (O. S. r. 13.)**

(Title)

The Analysis of

son of

and say as follows

(1) I am a process-server of this Court.

(2) On the _____ day of _____, 19____

I received a ^{summons} ~~notice~~ issued by the Court of
in Suit No.

of 117 in the said Court, dated the day of 19 for terms

(3) The bank was at the time personally known to me as:

I served the ^{sumner} ~~son~~ on ^{her} ~~the~~ day of

19 at about 6th clock in the noon at by tendering
to copy thereof to her and requiring his signature to the original
summons-
notice

(c)

463

(u) Here state whether the person served, signed or refused to sign the process and in whose presence

(b) Signaling of on-line server

or,

(3) The said not being personally known to me
and pointed out to me a person whom he stated to be the said
, and I served the said summons on him on the
day of 19, at about noon at
o'clock in the

2 ■ copy thereof to $\frac{\text{him}}{\text{her}}$ and requiring $\frac{\text{his}}{\text{her}}$ signature to
the original $\frac{\text{summons}}{\text{notice}}$.

(a)

(b)

(a) Here state whether the person served signed or refused to sign
the process, and in whose presence

(b) Signature of process-server.

or,

(3) The said _____ and the house in which he ordinarily
resides being personally known to me, I went to the said house,
in _____ and there on the _____ day of _____
_____ at about _____ o'clock in the _____ noon, I
did not find the said _____

(a)

(b)

(a) Enter fully and exactly the manner in which the process was
served, with special reference to Order 3, rules 13 and 17.

(b) Signature of process-server

or,

(3) One _____ accompanied me to _____ and there
pointed out to me _____ which he said was the house in
which ordinarily resides _____ I did not find the said _____ there,

(a)

(b)

(a) Enter fully and exactly the manner in which the process was
served, with special reference to Order 3, rules 13 and 17.

(b) Signature of process-server.

or,

*If substituted service has been ordered, state fully and
exactly the manner in which the summons was served with
special reference to the terms of the order for substituted service.*

Sworn by the said before me
Affirmed day of 19

Empowered under section 133 of
 Code of Civil Procedure to administer
 the oath to deponents

No 12.

NOTICE TO DEFENDANT O. S. r. 6)

(Title.

Name description and place of residence)

To

WHEREAS this day was fixed for the hearing of the above suit
 and a summons was issued to you and the plaintiff has appeared
 in this Court and you did not so appear, but from the return
 of the Nazir it has been proved to the satisfaction of the Court
 that the said summons was served on you but not in sufficient
 time to enable you to appear and answer on the day fixed in
 the said summons.

Notice is hereby given to you that the hearing of the suit is
 adjourned this day and that the day of 19 is now
 fixed for the hearing of the same; in default of your appearance
 on the day last mentioned the suit will be heard and determined
 in your absence

GIVEN under my hand and the seal of the Court, this
 day of 19

Judge

No. 13.

SUMMONS TO WITNESS. (O 16, r. 1. 5.)

(Title)

To

WHEREAS your attendance is required to
 behalf of the in the above suit, you are

by required [personally] to appear before this court on the
 day of 19 , at
 o'clock in the forenoon, and to bring with you [or to send to
 Court]

A sum of Rs. , being your travelling and
 other expenses and subsistence allowance for one day, is herewith
 set at. If you fail to comply with this order without lawful excuse,
 you will be subject to the consequences laid down in rule 12 of
 Order XIV of the Code of Civil Procedure.

GIVEN under my hand and the seal of the Court, this
 19 .

Judge.

NOTICE.—(1) If you are summoned only to produce a document
 and not to give evidence, you shall be deemed to
 have complied with the summons if you cause
 such document to be produced in this Court on
 the day and hour aforesaid.

(2) If you are detained beyond the day aforesaid, a sum
 of Rs will be tendered to you for each
 day's attendance beyond the day specified.

—
 No. 14

PROCLAMATION REQUIRING ATTENDANCE OF WITNESS.

(O 16, r 10)

(Title)

10

Whereas it appears from the examination on oath of the serv-
 ing officers that the summons could not be served upon the witness
 in the manner prescribed by law and whereas it appears that
 the evidence of the witness is material, and he absconds and
 keeps out of the way for the purpose of evading the service of
 the summons. This proclamation is therefore, under rule 10 of
 Order XVI of the Code of Civil Procedure, 1908, issued requir-
 ing the attendance of the witness in this Court on the
 day of 19 at o'clock in the forenoon,

and from day to day until he shall have leave to depart: and if the witness fails to attend on the day and hour aforesaid he shall be dealt with according to law.

GIVEN under my hand and the seal of the Court, this
day of 19 .

Judge.

IY O

No. 15.

PROCLAMATION REQUIRING ATTENDANCE OF WITNESS (O. 16 r. 10) (Title)

To

WHEREAS it appears from the examination on oath of the serving officer witness, and a material and h summons This proclamation is therefore, under rule 10 of Order XVI of the Code of Civil Procedure, 1908, issued, requiring the attendance of the witness in this Court on the of 19 at o'clock in the forenoon and from day to day until he shall have leave to depart; and if the witness fails to attend on the day and hour aforesaid he shall be dealt with according to law.

GIVEN under my hand and the seal of the Court, this
day of 19

Judge

No. 16.

WARRANT OF ATTACHMENT OF PROPERTY OF WITNESS (O. 16 r. 10) (Title.)

To

The Bailiff of the Court.

WHEREAS the witness
cited by

has not, after the expiration of the period limited in the

summons issued for his attendance, appeared in Court; You are hereby directed to hold under attachment property belonging to the said witness to the value of and to submit a return, accompanied with an inventory thereof, within days.

Given under my hand and the seal of the Court, this day of 19 .

Judge.

No. 17

WARRANT OF ARREST OF WITNESS. (O 16, r. 10.)

(Title.)

To

The Bailiff of the Court

WHEREAS has been duly served with a summons but has failed to attend [absconds and keeps out of the way for the purpose of avoiding service of a summons]; You are hereby ordered to arrest and bring the said before the Court

You are further ordered to return this warrant on or before the day of 19 with an endorsement certifying the day on and the manner in which it has been executed or the reason why it has not been executed.

Given under my hand and the seal of the Court, this day of 19 .

Judge.

No. 18

WARRANT OF COMMITTAL. (O. 16, r. 16.)

(Title.)

To

The Officer in charge of the Jail at

WHEREAS the plaintiff [or defendant] in the above named suit has made application to this Court that security be taken for the

appearance of
produce a document,] on the
19 , and whereas the Court has called upon the said
to furnish such security, which he has failed to do; That
to require you to receive the said
custody in the civil prison and to produce him before this Court
it on the said day and on s
other days as may be hereafter ordered.
(Given under my hand and seal of the Court, this
day of 19

Judge

No. 19.

WARRANT OF COMMITTAL O 16. r. 18) (Title)

To The Officer in charge of the Jail at

Whereas , whose attendance is required before the
Court in the above named case to give evidence (or to produce
(document) has been arrested and brought before the Court
custody and whereas owing to the absence of the plaintiff
(or defendant), the said cannot give such evidence (or produce
such document) and whereas the Court has called upon the said
to give security for his appearance on the day of 19
at which he has failed to do, This is to require you to
receive the said into your custody in the civil prison and to
produce him before this Court at on the day of 19
(Given under my hand and the seal of the Court, this day of

Judge.

The Code of Civil Procedure, 1908.

(The First Schedule.—Appendix C.—Discovery, Inspection and Admission.)

APPENDIX C.

DISCOVERY, INSPECTION AND ADMISSION.

No. 1

ORDER FOR DELIVERY OF INTERROGATORIES. (O. 11, r. 1.)

In the Court of
Civil Suit No

of

10

A. B

...

.. Plaintiff,

against

C. D. E. F. and G. H.

...

... Defendants.

Upon bearing

and upon reading the affidavit of

filed the

day of

19 , It is

ordered that the be at liberty to deliver to the
interrogatories in writing, and that the said do answer
the interrogatories as prescribed by Order XI, rule 8, and that
the costs of this application be

No. 2

INTERROGATORIES (O. 11, r. 4.)

(Title as in No. 1, supra.)

Interrogatories on behalf of the above-named [plaintiff or
defendant C. D.] for the examination of the above-named [defend-
ants E. F. and G. H. or plaintiff].

1 Did not etc.

2 Has not, etc.

etc.,

etc.,

etc.

[The defendant E. F. is required to answer the
interrogatories numbered .]

{The defendant G. H. to required to answer the
interrogatories numbered .}

No. 3.

ANSWER TO INTERROGATORIES (O 11, r 9)

(Title as in No. 1, supra.)

The answer of the above-named defendant E. F. to the interrogatories for his examination by the above named plaintiff

In answer to the said interrogatories, I, the above named E. F. make oath and say as follows --

1. } Enter answers to interrogatories in paragraphs numbered
 - 2 } consecutively
 - 3 I object to answer the interrogatories numbered
- on the ground that [states grounds of objection.]

No. 4.

ORDER FOR AFFIDAVIT AS TO DOCUMENTS. (O 11 r 12)

(Title as No. 1. supra.)

Upon hearing

It is order that the do within days from the date of this order answer on affidavit stating which documents are or have been in his possession or power relating to the matters in question in this suit and that the costs of this application be

No. 5.

AFFIDAVIT AS TO DOCUMENTS. (O 11, r 13.)

(Title as in No. 1. supra.)

I, the above named defendant G. D., make oath and say follows --

1. I have in my possession or power the documents relating to the matters in question in this suit set forth in the first and second parts of the first schedule hereto.

2. I object to produce the said documents set forth in the second part of the first schedule hereto [state grounds of objection.]

3 I have had, but have not now, in my possession or power the documents relating to the matters in question in this suit set forth in the second schedule hereto.

4. The last-mentioned documents were last in my possession or power on *[state when and what has become of them and in whose possession they now are]*

5 According to the best of my knowledge, information and belief I have not now, and never had, in my possession custody or power or in the possession, custody or power of my pleader or agent, or in the possession, custody or power of any other person on my behalf, any account, book of account, voucher, receipt, letter, memorandum paper or writing, or any copy of or extract from any such document, or any other document whatsoever, relating to the matters in question in this suit or any of them, or wherein any entry has been made relative to such matters or any of them, other than and except the documents set forth in the said first and second schedules hereto.

No. 6.

ORDER TO PRODUCE DOCUMENTS FOR INSPECTION

(O. 11, r. 14).

(Title as in No. 1, supra.)

Upon hearing _____ and upon reading the affidavit of _____ filed the day of _____ 19____, It is ordered that the _____ do, at all seasonable times, on reasonable notice, produce at _____, situate at _____, the following documents, namely, _____, and that the _____ be at liberty to inspect and peruse the documents so produced, and to make notes of their contents. In the meantime it is ordered that all further proceedings be stayed and that the costs of this application be _____

No. 7.

NOTICE TO PRODUCE DOCUMENTS. (O. 11, r. 16.)

(Title as in No. 1, supra.)

Take notice that the *[plaintiff or defendant]* requires you to produce for his inspection the following documents referred to in

your (plaint or written statement or affidavit dated the
day of 19 .]

[Describe documents required]

X V, Pleader for the

To Z Pleader for the

No 8.

NOTICE TO INSPECT DOCUMENTS (O. 11, r 17.)

Title as in No 1 supra.

Take notice that you can inspect the documents mentioned in
your notice of the day of 19, [except
the documents numbered in that notice] at [insert place of
inspection] on Thursday next, the instant, between
the hours of 12 and 1 o'clock.

(1), that the plaintiff or defendant] objects to giving you
inspection of documents mentioned in your notice of the
day of 19, on the ground that [state the
ground]

No 9.

NOTICE TO ADMIT DOCUMENTS (O 12, r. 3)

Title as in No 1, supra

Take notice that the plaintiff [or defendant] in this suit pro-
poses to adduce in evidence the several documents hereunto
specified, and that the same may be inspected by the defend-
ant, or plaintiff, his pleader or agent, at on , and the
between the hours of , and the
defendant [or plaintiff] is hereby required, within forty-eight
hours from the last- of the spe-
cified documents as are to have
written, signed or e been , that such as are specified as copies are true copies; and
such documents as are stated to have been served, sent or
delivered, were so served, sent or delivered, respectively serving
all just exceptions to the admissibility of all such documents as
evidence in his suit

G. H., pleader [or agent] for plaintiff [or defendant].

To E. F., pleader [or agent] for defendant [or plaintiff].

[Here describe the documents and specify as to each document whether it is original or a copy]

No. 10

NOTICE TO ADMIT FACTS [O. 12, r. 5.]

(Title as in No. 1, supra.)

Take notice that the plaintiff [or defendant] in this suit requires the defendant [or plaintiff] to admit for the purposes of

G. H., pleader [or agent] for plaintiff [or defendant].

To E. F., pleader [or agent] [for defendant [or plaintiff]]

The facts, the admission of which is required, are—

- 1 That M died on the 1st January, 1890
- 2 That he died intestate
3. That N was his only lawful son.
4. That O died on the 1st April, 1896
5. That O was never married.

No. 11.

ADMISSION OF FACTS PURSUANT TO NOTICE. (O. 12, r. 5.)

(Title as in No 1, supra.)

The defendant [or plaintiff] in this suit, for the purposes of
 un-
 any,
 sibi-

Provided that this admission is made for the purposes of this suit only, and is not an admission to be used against the defendant (or plaintiff) on any other occasion or by any one other than the plaintiff (or defendant, or party requiring the admission).

E. F., pleader (or agent) for defendant (or plaintiff).

To G. H., pleader (or agent) for plaintiff (or defendant).

Facts admitted	Qualifications or limitations if any subject to which they are admitted
1 That M. died on the 1st January, 1890 .	1
2 That he died intestate .	2
3 That N. was his lawful son	3 But not that he was his only lawful son.
4. That O. died	4 But not that he died on the 1st April, 1836.
5. That O. was never married	5

No 12

NOTICE TO PRODUCE (GENERAL FORM) (O. 12, r. 8.)

Title as in No. 1. *supra*)

custody, possession or power, containing any entry, memorandum or minute relating to the matters in question in this suit, and particularly

G. H., pleader (or agent) for plaintiff (or defendant).

To E. F., pleader (or agent) for defendant (or plaintiff).

APPENDIX D, DECREES.

No. 1.

DECREE IN ORIGINAL SUIT. (O. 20, rr. 6, 7.)

(Title)

Claim for

This suit coming on this day for final disposal before in the presence of for the plaintiff and of for the defendant, it is ordered and decreed that and that the sum of Rs. be paid by the to the on account of the costs of this suit, with interest thereon at the rate of per cent. per annum from this date to date of realization.

Given under my hand and the seal of the Court, this day of 19 .

Judge.

Costs of Suit.

Plaintiff.				Defendant.			
		Rs.	A. P.			Rs.	A. P.
1. Stamp for plaint...				Stamp for power ...			
2. Do for power ...				Do. for petition ...			
3. Do for exhibits ...				Pleader's fee ...			
4. Pleader's fee on Rs				Subsistence for witnesses ...			
5. Subsistence for witnesses ...				Service of process ...			
6 Commissioner's fee				Commissioner's fee ...			
7. Service of process							
Total ...				Total ...			

day of 19 , (b) the plaintiff shall deliver up etc (as in Form No. 3)

(4) That in default of the second defendant paying the said sum on or before the said day he shall be debarred from all right to redeem the property.

(5) That in case the first defendant shall redeem the mortgaged property, if the second defendant pays into Court the said sums of Rs. y and s on or before the day of 19 , (b) the first defendant shall deliver up etc (as in form No. 3).

(6) That in default of the second defendant paying the said sums on or before the said day he shall be debarred from all right to redeem the property. [Where the second defendant is in possession add and shall put the first defendant in possession of the property]

No. 7.

DECREE FOR SALE --FIRST MORTGAGEE V. SECOND MORTGAGEE AND MORTGAGOR--ONE PERIOD FOR REDEMPTION

(Title).

It is hereby declared that the amount due to the plaintiff on account of principal, interest and costs calculated up to the day of 19 , is Rs. x, and that on the said day there will be due to the first defendant on account of principal, interest and costs Rs. y and it is decreed as follows:—

(1) That if the defendants or either of them pay into Court the said sum of Rs. x on or before the said day of 19 the plaintiff shall deliver up, etc. (as in form No. 4)

(2) That if payment of the said sum is not made on or before the day of 19 the mortgaged property or a sufficient part thereof be sold, and that the proceeds of the sale (after defraying thereout the ex-

(b) Insert a day within three months from the date mentioned in (1)

... of the sale) be paid into Court to the credit of this suit,
 ... plaintiff of the said sum of
 ... costs as may be allowed
 ... the first defendant of the
 said sum of Rs. y and such subsequent interest and costs as
 aforesaid; and that the balance, if any, be paid to the second
 defendant.

(3) That in case the defendants or either of them shall pay the
 ...
 wise as he or they may be advised.

(4) That if the net proceeds of the sale are insufficient to pay

No. 8.

**DECREE FOR SALE—SECOND MORTGAGEE V. FIRST MORTGAGEE
 AND MORTGAGOR—ONE PERIOD FOR REDEMPTION.**

(Title.)

[Insert declarations of the amounts due to the plaintiff Rs. y
 and to the first defendant Rs. x as in Form No. 7.]

And it is decreed as follows :—

(1) That if the plaintiff or the second defendant pays into
 Court the said sum of Rs. x on or before the said day of
 19 , the first defendant shall
 deliver up, ect. (as in Form No. 4).

(2) That if payment of the said sum is not made on or before
 the day of
 19 , the first defendant shall be at liberty to apply that the
 suit be dismissed or for the sale of the mortgaged property, and
 in case he shall apply for a sale the mortgaged property or a sufficient
 part thereof shall be sold free from the incumbrances of the plaintiff
 and first defendant, and the proceeds of the sale (after defraying
 thereout the expenses of the sale) shall be paid into Court and

day of 19 , (b) the plaintiff shall deliver up etc. (as in Form No. 3)

(4) That in default of the second defendant paying the sum on or before the said day he shall be debarred from all right to redeem the property.

(5) That in case the first defendant shall redeem the mortgaged property, if the second defendant pays into Court the sums of Rs *y* and *z* on or before the day of 19 , (b) the first defendant shall deliver up etc. (as in form No. 3).

(6) That in default of the second defendant paying the sums on or before the said day he shall be debarred from all right to redeem the property. [Where the second defendant is in possession add and shall put the first defendant in possession of the property]

No. 7.

DECREE FOR SALE --FIRST MORTGAGEE V. SECOND MORTGAGEE AND MORTGAGOR--ONE PERIOD FOR REDEMPTION

(Title).

It is hereby declared that the amount due to the plaintiff on account of principal, interest and costs calculated up to the day of 19 , is Rs. *x*, and that on the said day there will be due to the first defendant on account of principal, interest and costs Rs. *y* and it is decreed as follows. --

(1) That if the defendants or either of them pay into Court the said sum of Rs *x* on or before the said day of 19 the plaintiff shall deliver up, etc. (as in form No. 4)

(2) That if payment of the said sum is not made on or before the day of 19 the mortgaged property or sufficient part thereof be sold, and that the proceeds of the sale (after defraying thereout the costs of sale)

(b) Insert a day within three months from the date mentioned in (a)

proceeds of the sale) be paid into Court to the credit of this suit, to be applied, first in payment to the plaintiff of the said sum of Rs. x and such subsequent interest and costs as may be allowed by the Court ; secondly, in payment to the first defendant of the said sum of Rs. y and such subsequent interest and costs as aforesaid ; and that the balance, if any, be paid to the second defendant.

(3) That in case the defendants or either of them shall pay the said sum of Rs. x as aforesaid he or they shall be at liberty to apply to the Court that the plaintiff's mortgage may be kept alive to the benefit of the person making the said payment or otherwise as he or they may be advised.

(4) That if the net proceeds of the sale are insufficient to pay the said sum of Rs. x and such subsequent interest and costs in full, the plaintiff shall be at liberty to apply for a personal decree for the amount of the balance.

No. 8.

DEED FOR SALE—SECOND MORTGAGEE V. FIRST MORTGAGEE AND MORTGAGOR—ONE PERIOD FOR REDEMPTION.

(Title.)

[Insert declarations of the amounts due to the plaintiff Rs. y and to the first defendant Rs. x as in Form No. 7.]

And it is decreed as follows :—

(1) That if the plaintiff or the second defendant shall pay into Court

the sum of Rs. x and such subsequent interest and costs as may be allowed by the Court

(2) That if payment of the said sum is not made on or before the day of _____, the first defendant shall be at liberty to apply that the

proceeds of the sale) shall be paid into Court and

day of 19 , (b) the plaintiff shall deliver up etc (as in Form No. 3)

(4) That in default of the second defendant paying the sum on or before the said day he shall be debarred from all right to redeem the property.

(5) That in case the first defendant shall redeem the mortgaged property, if the second defendant pays into Court the sums of Rs y and z on or before the day of 19 , (b) the first defendant shall deliver up etc (as in form No. 3)

(6) That in default of the second defendant paying the sums on or before the said day he shall be debarred from right to redeem the property. [Where the second defendant is in possession add and shall put the first defendant in possession of the property]

No. 7.

DECREE FOR SALE—FIRST MORTGAGEE V. SECOND MORTGAGEE AND MORTGAGOR.—ONE PERIOD FOR REDEMPTION

(Title).

It is hereby declared that the amount due to the plaintiff on account of principal, interest and costs calculated up to the day of 19 , is Rs. x, and that on the said day there will be due to the first defendant on account of principal, interest and costs Rs y and it is decreed as follows:—

(1) That if the defendants or either of them pay into Court the said sum of Rs x on or before the said day of 19 the plaintiff shall deliver up, etc. (as in form No 4)

(2) That if payment of the said sum is not made on or before the day of 19 the mortgagee shall sell the mortgaged property or sufficient part thereof be sold, and that the proceeds of the sale (after defraying thereout the costs)

(b) Insert a day within three months from the date mentioned in (1)

ences of the sale) be paid into Court to the credit of this suit, and applied, first in payment to the plaintiff of the said sum of Rs. x and such subsequent interest and costs as may be allowed by the Court, and the balance to the first defendant of the said sum, and the interest and costs as aforesaid be paid to the second defendant.

(3) That in case the defendants or either of them shall pay the said sum of Rs. x as aforesaid he or they shall be at liberty to apply to the Court that the plaintiff's mortgage may be kept alive for the benefit of the person making the said payment or otherwise as he or they may be advised.

(4) That if the net proceeds of the sale are insufficient to pay the said sum of Rs. x and such subsequent interest and costs in full, the plaintiff shall be at liberty to apply for a personal decree for the amount of the balance.

No 8.

DEGREE FOR SALE—SECOND MORTGAGEE V. FIRST MORTGAGEE AND MORTGAGOR—ONE PERIOD FOR REDEMPTION.

(Title.)

[Insert declarations of the amounts due to the plaintiff Rs. y and to the first defendant Rs. x as in Form No. 7]

And it is decreed as follows :—

(1) That the said sum of Rs. y be paid into Court

and be delivered up, ect. (as in Form No 4).

(2) That if payment of the said sum is not made on or before the day of 19 , the first defendant shall be at liberty to apply that the suit be dismissed or for the sale of the mortgaged property ; and in case he shall apply for a sale the mortgaged property or a sufficient part thereof shall be sold free from the incumbrances of the plaintiff and first defendant, and the proceeds of the sale (after defraying thereout the expenses of the sale) shall be paid into Court and

applied, first, in payment to the first defendant of the said sum of Rs. *x* and such subsequent interest and costs as may be allowed by the Court. Secondly, in payment to the plaintiff of the said sum of Rs. *y* and such subsequent interest and costs as aforesaid; and that the balance, if any, be paid to the second defendant.

(3) That if the plaintiff shall pay the said sum of Rs. *x* into Court on or before the day of 19 , the second defendant shall be at liberty to pay into Court the said sum and sum of Rs. *y* on or before the day of 19 , and thereupon the plaintiff shall deliver up etc. (Form No. 4)

(4) That if the plaintiff shall pay the said sum as aforesaid but the second defendant shall fail to pay the said sum as aforesaid the mortgaged property or a sufficient part thereof shall be sold, at the instance of the plaintiff, and the proceeds of the sale, after defraying therecosts of sale, shall be paid to the plaintiff in satisfaction of the said sum of Rs. *y* and such subsequent interest and costs, and that the balance, if any, be paid to the second defendant.

(5) That if the net proceeds of the sale are insufficient to pay the said sums, interest and costs in full, the plaintiff shall be at liberty to apply for a personal decree for the amount of the balance.

No. 9.

DECREET FOR SALE OF MORTGAGED PROPERTY

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(Title)

[Insert declarations of the amounts due to the plaintiff and to the first defendant Rs. *y* as in Form No. 7.]

And it is decreed as follows —

(1) The first defendant and the second defendant shall be at liberty to pay into Court the said sums of Rs. *x* and Rs. *y* respectively on or before the day of 19 and upon either of the payments being made the plaintiff shall

er up, etc. (as in Form No. 1), and thereupon the the sum of c shall be paid to the plaintiff.

2) In the event of payment by the second defendant as said the first defendant shall also deliver up etc. (as in Form 1.) and thereupon the residue (after payment to the plaintiff foresaid) shall be paid to the first defendant.

3) In default of payment by the first and second defendants foresaid the mortgaged property or a sufficient part thereof

to be
exp
in
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ant

ed the amount of principal and interest due to the first defend-
t) secondly, in payment to the first defendant of the excess of
y over Rs x and such subsequent interest and costs as afore-
; and that the balance, if any, be paid to the second defend-
t

(4) In the event of payment by the first defendant and in de-
lt of payment by the second defendant as aforesaid, the first
endant shall be at liberty to apply for the sale of the mortga-
thereof
l in pay-
and such
ourt and

balance, if any, shall be paid to the second defendant

(5) That if the net proceeds of the sale are insufficient to pay
aforesaid sums with further interest and costs the plaintiff or
first defendant, as the case may be, shall be at liberty to apply
a personal decree for the amount of the balance

No 10

FINAL DECREE FOR FORCLOSURE (O 34, r 3)

(Title)

Upon reading the decree passed in the above suit on the
day of 19 , and the applica-

applied, first in payment to the first defendant of the said Rs. *x* and such subsequent interest and costs as may be allowed by the Court. Secondly, in payment to the plaintiff of the said Rs. *y* and such subsequent interest and costs as aforesaid that the balance, if any, be paid to the second defendant.

(3) That if the plaintiff shall pay the said sum of Rs. *z* into Court on or before the day of 19, the second defendant shall be at liberty to pay into Court the said sum of Rs. *y* on or before the day of 19, and thereupon the plaintiff shall deliver up etc. (Form No. 4)

(4) That if the plaintiff shall pay the said sum as aforesaid but the second defendant shall fail to pay the said sum aforesaid the mortgaged property or a sufficient part thereof be sold, and the proceeds of the sale (after defraying thereon charges of the sale) shall be applied in payment to the plaintiff the said sums of Rs. *z* and Rs. *y* and such subsequent interest and costs as may be allowed by the Court, and that the balance, if any, be paid to the second defendant.

(5) That if the net proceeds of the sale are insufficient to pay the said sums interest and costs in full, the plaintiff shall be at liberty to apply for a personal decree for the amount of the balance.

No 9

DECREE FOR SALE.—SUB MORTGAGEE V MORTGAGEE AND MORTGAGOR THE AMOUNT OF THE ORIGINAL MORTGAGE EXCEEDING THAT OF THE SUB-MORTGAGE

(Title)

[Insert declarations of the amounts due to the plaintiff and to the first defendant Rs. *y* as in Form No. 7.]

And it is decreed as follows —

(1) The first defendant and the second defendant shall be at liberty to pay into Court the said sums of Rs. *x* and Rs. *y* respectively on or before the day of 19, and upon either of the payments being made the plaintiff shall

iver up, etc. (as in Form No. 1), and thereupon the the sum of x shall be paid to the plaintiff.

(2) In the event of payment by the second defendant as aforesaid the first defendant shall also deliver up etc. (as in Form No. 4,) and thereupon the residue (after payment to the plaintiff aforesaid) shall be paid to the first defendant.

(3) In default of payment by the first and second defendants aforesaid the mortgaged property or a sufficient part thereof shall be sold, and the proceeds of the sale shall be applied in payment to the plaintiff of the principal sum of Rs y and such subsequent interest and costs as shall be allowed by the Court.

And the balance of the proceeds of the sale shall be paid to the second defendant over Rs x and such subsequent interest and costs as aforesaid; and that the balance, if any, be paid to the second defendant.

(4) In the event of payment by the first defendant and in default of payment by the second defendant as aforesaid, the first defendant shall be at liberty to apply for the sale of the mortgaged property, and there upon the same or a sufficient part thereof shall be sold, and the net sale-proceeds shall be applied in payment to the first defendant of the said sum of Rs y and such subsequent interest and costs as may be allowed by the Court and the balance, if any, shall be paid to the second defendant.

(5) That if the net proceeds of the sale are insufficient to pay the aforesaid sums with further interest and costs the plaintiff or the first defendant, as the case may be, shall be at liberty to apply for a personal decree for the amount of the balance.

No 10.

FINAL DECREE FOR FORCLOSURE (O 34, r 3)

(Title)

Upon reading the decree passed in the above suit on the
day of 19 , and the applica-

applied, first in payment to the first defendant of the said sum of Rs. *x* and such subsequent interest and costs as may be allowed by the Court. Secondly, in payment to the plaintiff of the said sum of Rs. *y* and such subsequent interest and costs as aforesaid; and that the balance, if any, be paid to the second defendant.

(3) That if the plaintiff shall pay the said sum of Rs. *x* to Court on or before the day of 19, the second defendant shall be at liberty to pay into Court the said sum and sum of Rs. *y* on or before the day of 19, and thereupon the plaintiff shall deliver up etc (as Form No. 4).

(4) That if the plaintiff shall pay the said sum as aforesaid but the second defendant shall fail to pay the said sum as aforesaid the mortgaged property or a sufficient part thereof shall be sold, and the proceeds of the sale (after defraying therecosts and charges of the sale) shall be applied in payment to the plaintiff of the said sums of Rs. *x* and Rs. *y* and such subsequent interest and costs as may be allowed by the Court, and that the balance if any be paid to the second defendant.

(5) That if the net proceeds of the sale are insufficient to pay the said sums interest and costs in full, the plaintiff shall be at liberty to apply for a personal decree for the amount of the balance.

No 9

DECREE FOR SALE — SUB MORTGAGEE VS MORTGAGEE AND MORTGAGOR THE AMOUNT OF THE ORIGINAL MORTGAGE EXCEEDING THAT OF THE SUB-MORTGAGE

(Title)

[Insert declarations of the amounts due to the plaintiff and to the first defendant Rs. *y* as in Form No. 7.]

And it is decreed as follows —

(1) The first defendant and the second defendant shall be at liberty to pay into Court the said sums of Rs. *x* and Rs. *y* respectively on or before the day of 19 and upon either of the payments being made the plaintiff shall

deliver up etc (as in Form No 4), and thereupon the the sum of Rs. x shall be paid to the plaintiff.

(2) In the event of payment by the second defendant as aforesaid the first defendant shall also deliver up etc. (as in Form No 4,) and thereupon the residue (after payment to the plaintiff as aforesaid) shall be paid to the first defendant.

(3) In default of payment by the first and second defendants as aforesaid the mortgaged property or a sufficient part thereof shall be sold, and the proceeds of the sale (after deducting thereout the expenses of the sale) shall be paid into Court and applied first in payment to the plaintiff of the said sum of Rs. x and such subsequent interest and costs as may be allowed by the Court (but so that the aggregate amount of principal and interest shall not exceed the amount of principal and interest due to the first defendant of the excess of interest and costs as aforesaid shall be paid to the second defendant.

(4) In the event of payment by the first defendant and in default of payment by the second defendant as aforesaid, the first defendant shall be at liberty to apply for the sale of the mortgaged property, and there upon the same or a sufficient part thereof shall be sold, and the net sale-proceeds shall be applied in payment to the first defendant of the said sum of Rs. y and such further interest and costs as may be allowed by the Court, and the balance, if any, shall be paid to the second defendant.

(5) That if the net proceeds of the sale are insufficient to pay the aforesaid sums with further interest and costs the plaintiff or the first defendant, as the case may be, shall be at liberty to apply for a personal decree for the amount of the balance.

No 10.

FINAL DECREE FOR FORECLOSURE (O 34.r. 3)

(Title)

Upon reading the decree passed in the above suit on the
day of 19 , and the applica-

tion of the plaintiff dated the day of 19 ,
 after hearing pleader for the plaintiff and F.
 der for the defendant, and it appearing that the payment directed
 ed by the said decree has not been made :

It is hereby decreed as follows :—

That the defendant and all persons claiming through
 under him be debarred from all right to redeem the mortgaged
 property set out and described in the schedule hereunto annexed

[Where the defendant is in possession add and shall put
 plaintiff in possession of the said property]

Schedule.

Description of the mortgaged property

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 No 11

### **DECREE AGAINST MORTGAGOR PERSONALLY (O 34 r 8)** **(Title.)**

Whereas the net proceeds of the sale held under the first  
 decree for sale passed in this suit on the                      day of                      19                      ,  
 Rs 7, and now in Court to the credit of this suit, amount to  
 mentioned in the said decree together with the further sum of  
 Rs                      interest thereon at the rate of 6 per cent per annum  
 from the                      day of                      19                      to this day, and  
 also the sum of Rs                      for his costs of this suit subsequent  
 to the Decree, making a balance due to the plaintiff of Rs 2  
 And whereas it appears to this Court that the defendant is personally  
 liable for the said balance

It is hereby decreed as follows :—

(1) That the said sum of Rs. 7 be paid out of Court to the  
 plaintiff

(2) That the said sum of Rs. 2 be paid out of Court to the  
 plaintiff

No. 12.

**DECREE FOR RECTIFICATION OF INSTRUMENT.**

*(Title.)*

It is hereby declared that the \_\_\_\_\_, dated the \_\_\_\_\_  
y of \_\_\_\_\_ 19 \_\_\_\_\_, does not truly express the intention of  
the parties to such \_\_\_\_\_.

And it is decreed that the said \_\_\_\_\_ be rectified by \_\_\_\_\_.

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No. 13.

**DECREE TO SET ASIDE A TRANSFER IN FRAUD OF CREDITORS.**

*(Title.)*

It is hereby declared that the \_\_\_\_\_, dated the \_\_\_\_\_  
y of \_\_\_\_\_ 19 \_\_\_\_\_, and made between \_\_\_\_\_ and \_\_\_\_\_,  
void as against the plaintiff and all other the creditors, if any  
the defendant \_\_\_\_\_.

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No. 14.

**INJUNCTION AGAINST PRIVATE NUISANCE.**

*(Title.)*

Let the defendant \_\_\_\_\_, his agents, servants and  
workmen, be perpetually restrained from burning, or causing to  
be burnt, any building on the defendant's plot of land marked B in

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No. 15

**INJUNCTION AGAINST BUILDING HIGHER THAN OLD LEVEL.**

*(Title.)*

Let the defendant \_\_\_\_\_, his contractors, agents and  
workmen, be perpetually restrained from continuing to erect  
upon his premises in \_\_\_\_\_ any house or building of a  
greater height than the buildings which formerly stood upon his



tion of the plaintiff dated the                      day of                      1  
after hearing                      pleader for the plaintiff and  
der for the defendant, and it appearing that the payment direct-  
ed by the said decree has not been made :

It is hereby decreed as follows :—

That the defendant and all persons claiming through  
under him be debarred from all right to redeem the mortgaged  
property set out and described in the schedule hereunto annexed

[Where the defendant is in possession add and shall put the  
plaintiff in possession of the said property]

### *Schedule.*

#### *Description of the mortgaged property*

#### No. 11

### **DECREE AGAINST MORTGAGOR PERSONALLY (O 34 r 6.)**

*(Title.)*

Whereas the net proceeds of the sale held under the said  
decree for sale passed in this suit on the                      day of                      19  
19                      , and now in Court to the credit of this suit, amount to  
Rs. y, and there is now due to the plaintiff the sum of Rs. z  
mentioned in the said decree together with the further sum of  
Rs.                      interest thereon at the rate of 6 per cent per annum  
from the                      day of                      19                      to this day, and  
also the sum of Rs.                      for his costs of this suit subsequent  
to the decree, making a balance due to the plaintiff of Rs. z  
And whereas it appears to this Court that the defendant is per-  
sonally liable for the said balance

It is hereby decreed as follows :—

(1) That the said sum of Rs. y be paid out of Court to the  
plaintiff

(2) That the defendant do pay to the plaintiff the said sum  
of Rs. z with interest thereon at the rate of 6 per cent per annum  
from this day to the date of realization of the said sum.

No. 12.

**DECREE FOR RECTIFICATION OF INSTRUMENT.**

(Title.)

is hereby declared that the \_\_\_\_\_, dated the \_\_\_\_\_  
of \_\_\_\_\_ 19\_\_\_\_, does not truly express the intention of  
parties to such \_\_\_\_\_  
and it is decreed that the said \_\_\_\_\_ be rectified by \_\_\_\_\_.

No. 13.

**DECREE TO SET ASIDE A TRANSFER IN FRAUD OF CREDITORS.**

(Title.)

is hereby declared that the \_\_\_\_\_, dated the \_\_\_\_\_  
of \_\_\_\_\_ 19\_\_\_\_, and made between \_\_\_\_\_ and \_\_\_\_\_,  
passed as against the plaintiff and all other the creditors, if any,  
by defendant \_\_\_\_\_.

No 14.

**INJUNCTION AGAINST PRIVATE NUISANCE.**

(Title.)

Let the defendant \_\_\_\_\_, his agents, servants and  
men, be perpetually restrained from burning or causing to

No. 15

**INJUNCTION AGAINST BUILDING HIGHER THAN OLD LEVEL.**

(Title.)

Let the defendant \_\_\_\_\_, his contractors, agents and  
men, be perpetually restrained from continuing to erect  
on his premises in \_\_\_\_\_ any house or building of a  
greater height than the buildings which formerly stood upon his

tion of the plaintiff dated the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
after hearing \_\_\_\_\_ pleader for the plaintiff and \_\_\_\_\_  
der for the defendant, and it appearing that the payment due  
ed by the said decree has not been made :

It is hereby decreed as follows :—

That the defendant and all persons claiming through or under him be debarred from all right to redeem the mortgaged property set out and described in the schedule hereunto annexed

[Where the defendant is in possession add and shall put the plaintiff in possession of the said property.]

*Schedule.*

*Description of the mortgaged property*

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No. 11

**DECREE AGAINST MORTGAGOR PERSONALLY (O 34 r 6)**  
(Title.)

Whereas the net proceeds of the sale held under the said  
decree for sale passed in this suit on the \_\_\_\_\_ day of \_\_\_\_\_  
19\_\_\_\_, and now in Court to the credit of this suit, amount to  
Rs. y, and there is now due to the plaintiff the sum of Rs. z  
the further sum of \_\_\_\_\_  
\_\_\_\_\_ per cent. per annum  
to this day, and  
also the sum of Rs. \_\_\_\_\_ for his costs of this suit subsequent  
to the decree made.  
And  
nally

It is hereby decreed as follows :—

(1) That the said sum of Rs. y be paid out of Court to the plaintiff.

(2) That the defendant do pay to the plaintiff the said sum of Rs. z with interest thereon at the rate of 6 per cent per annum from this day to the date of realization of the said sum.

No. 12.

**DECREE FOR RECTIFICATION OF INSTRUMENT.**

*(Title.)*

is hereby declared that the \_\_\_\_\_, dated the \_\_\_\_\_ of \_\_\_\_\_ 19\_\_\_\_, does not truly express the intention of parties to such \_\_\_\_\_ and it is decreed that the said \_\_\_\_\_ be rectified by \_\_\_\_\_.

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No. 13

**DECREE TO SET ASIDE A TRANSFER IN FRAUD OF CREDITORS.**

*(Title)*

is hereby declared that the \_\_\_\_\_, dated the \_\_\_\_\_ of \_\_\_\_\_ 19\_\_\_\_, and made between \_\_\_\_\_ and \_\_\_\_\_, is void as against the plaintiff and all other the creditors, if any, of the defendant \_\_\_\_\_.

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No 14.

**INJUNCTION AGAINST PRIVATE NUISANCE.**

*(Title.)*

Let the defendant \_\_\_\_\_, his agents, servants and workmen, be perpetually restrained from burning, or causing to be burnt, any bricks on the defendant's plot of land marked B in annexed plan, so as to occasion a nuisance to the plaintiff as owner or occupier of the dwelling-house and garden mentioned in the plaint as belonging to and being occupied by the plaintiff.

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No. 15.

**INJUNCTION AGAINST BUILDING HIGHER THAN OLD LEVEL.**

*(Title.)*

Let the defendant \_\_\_\_\_, his contractors, agents and workmen, be perpetually restrained from continuing to erect on his premises in \_\_\_\_\_ any house or building of a greater height than the buildings which formerly stood upon his

said premises and which have been recently pulled down, so in such manner as to darken, injure or obstruct such of the plaintiff's windows in his said premises as are ancient lights

### No. 16

## INJUNCTION RESTRAINING USE OF PRIVATE ROAD

(Title.)

Let the defendant, his agents, servants and workmen, be perpetually restrained from using or permitting to be used any part of the lane at the soil of which belongs to the plaintiff, as a carriage-way for the passage of carriages or other vehicles, either going to or from the place marked II in the annexed plan or for any purpose whatsoever

### No. 17

## PRELIMINARY DECREE IN AN ADMINISTRATION-SUIT.

(Title )

It is ordered that the following accounts and inquiries be taken and made, that is to say :—

*In creditor's suit—*

1. That an account be taken of what is due to the plaintiff and all other the creditors of the deceased.

*In suits by legatees—*

2 That an account be taken of the legacies given by the testator's will.

*In suits by next-of-kin—*

3 That an account be taken of what, or of the share of his (or one)

[After the first paragraph, the decree will, where necessary, order, in a creditor's suit, inquiry and accounts for legatees, heirs-at-law and next-of-kin. In suits by claimants other than creditors, after the first paragraph, in all cases, an order to enquire and take an account of creditors will follow the first paragraph]

d such of the others as may be necessary will follow, omitting the first formal words. The form is continued as in a creditor's bill.

4. An account of the funeral and testamentary expenses

5. An account of the moveable property of the deceased come to the hands of the defendant, or to the hands of any other person by his order or for his use.

6. An inquiry what part (if any) of the moveable property of the deceased is outstanding and undisposed of.

7. And it is further ordered that the defendant do, on or before the \_\_\_\_\_ day of \_\_\_\_\_ next pay into Court \_\_\_\_\_ sums of money which shall be found to have come to his hands, or to the hands of any person by his order or for his use.

8. And that if the \_\_\_\_\_ should find it necessary for carrying out the objects of the suit to sell any part of the moveable property of the deceased, that the same be sold accordingly, and the proceeds paid into Court.

9. And that Mr E. F. be receiver in the suit (or proceeding), and shall receive and get in all outstanding debts and outstanding moveable property of the deceased, and pay the same into the hands of the \_\_\_\_\_ † (and shall give security by bond for the due performance of his duties to the amount of \_\_\_\_\_ rupees)

10. And it is further ordered that if the moveable property of the deceased be found insufficient for carrying out the objects of the suit, then the following further inquiries be made, and accounts taken, that is to say—

- (a) an inquiry what immoveable property the deceased was seized of or entitled to at the time of his death ;
- (b) an inquiry what are the incumbrances (if any) affecting the immoveable property of the deceased or any part thereof ,
- (c) an account, so far as possible, of what is due to the several incumbrancers, and to include a statement of

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\* Here insert name of proper officer

† Here insert name of proper officer.

the priorities of such of the incumbrancers as consent to the sale hereinafter directed.

11 And that the immoveable property of the deceased, or much thereof as shall be necessary to make up the fund in Court sufficient to carry out the object of the suit, be sold with the consent of the Court, and the proceeds thereof be applied to the payment of the debts of the deceased.

12 And it is ordered that G. H. shall have the conduct of the sale of the immoveable property, and shall prepare the conditions and contracts of sale subject to the approval of the Court, and that in case any doubt or difficulty shall arise the report shall be submitted to the judge to settle.

13 And it is further ordered that, for the purpose of making inquiries hereinbefore directed, the Court shall advertise the newspapers to the effect of the Court, or at the expense of the parties, to make such inquiries.

14. And it is ordered that the above inquiries and accounts made and taken and that all other acts ordered to be done be completed, before the day of the month of \_\_\_\_\_, and that the Court do certify the result of the inquiries, and the accounts, and that all other acts ordered are completed, and have his certificate in that behalf ready for the inspection of the parties the day of \_\_\_\_\_.

15. And, lastly, it is ordered that this suit [or proceedings] stand adjourned for making final decree to the day of \_\_\_\_\_.

[Such part only of this decree is to be used as is applicable to the particular case.]

No. 18.

# FINAL DECREE IN AN ADMINISTRATION-SUIT BY A LEGAL EXECUTOR.

(Title.)

1. It is ordered that the defendant do, on or before the day of \_\_\_\_\_ pay into Court the sum of \_\_\_\_\_

\* Here insert name of proper officer.

, the balance by the said certificate found to be due  
 the said defendant on account of the estate of  
 estator, and also the sum of Rs. for interest, at  
 te of Rs. per cent. per annum, from the  
 f to the day of , amounting to-  
 r to the sum of Rs.

Let the of the said Court tax the costs of the

- (a) The costs of the plaintiff to Mr. , his attorney  
 [or pleader] or, and the costs of the defendant to  
 Mr. , his attorney [or pleader].
- (b) (i.e. the said sum) with the residue of the said sum

"together with subsequent interest on such  
 of the debts  
 as bear interest, be paid: and after making such pay-  
 ments, let the amount coming to the several legatees  
 mentioned in the  
 schedule, together with subsequent interest (to be verified  
 as aforesaid), be paid to them

And if there should then be any residue, let the same be  
 to the residuary legatee

#### No. 19.

**PRELIMINARY DECREE IN AN ADMINISTRATION-SUIT BY A  
 LEGATEE, WHERE AN EXECUTOR IS HELD PERSONAL-  
 LY LIABLE FOR THE PAYMENT OF LEGACIES.**

(Title.)

1. It is declared that the defendant is personally liable to pay  
 legacy of Rs bequeathed to the plaintiff;

\* Here insert name of proper officer.



2 And it is ordered that an account be taken of what for principal and interest on the said legacy ;

3 And it is also ordered that the defendant do within weeks after the date of the certificate of the <sup>2 per</sup> plaintiff the amount of what the <sup>2 shall cert</sup> due for principal and interest ,

4 And it is ordered that the defendant do pay the plaintiff's costs of suit, the same to be taxed in case the parties differ

### No 20

### FINAL DECREE AN ADMINISTRATION-SUIT BY NEXT OF KIN (Title)

1 Let the <sup>of the said Court</sup> tax the costs of plaintiff and defendant in this suit and let the amount of said plaintiff's costs when so taxed, be paid by the defendant to the plaintiff out of the sum of Rs <sup>the balance by the</sup> certificate found to be due from the said defendant on account of the personal estate of E. F., the intestate, within one week after the taxation of the said costs by the said <sup>and let</sup> defendant retain for her own use out of such sum her costs, so taxed.

2 And it is ordered that the residue of the said sum of money after payment of the plaintiff's and defendant's costs as aforesaid be paid and applied by defendant as follows —

- (a) Let the defendant, within one week after the taxation of the said costs by the <sup>as aforesaid</sup> one-third share of the said residue to the plaintiff B and C. D., his wife in her right as the sister and one of the next-of-kin of the said E. F., the intestate.
- (b) Let the defendant retain for her own use one other third share of the said residue as the mother and one of the next-of-kin of the said E. F., the intestate.
- (c) And let the defendant, within one week after the taxation of the said costs by the <sup>as aforesaid</sup> the remaining one-third share of the said residue to G. H., as the brother and the other next-of-kin of the said E. F., the intestate.

## No 21.

**RELIMINARY DECREE IN A SUIT FOR DISSOLUTION OF  
PARTNERSHIP AND TAKING OF PARTNERSHIP  
ACCOUNTS.**

(Title.)

It is declared that the proportionate shares of the parties in the partnership are as follows —

It is declared that this partnership shall stand dissolved [or shall be deemed to have been dissolved] as from the day of \_\_\_\_\_, and it is ordered that the dissolution thereof from that day be advertised in the \_\_\_\_\_ Gazette, etc.

And it is ordered that \_\_\_\_\_ be the receiver of the partnership estate and effects in this suit and do get in all the outstanding book-debts and claims of the partnership

And it is ordered that the following accounts be taken .—

1 An account of the credits, property and effects now belonging to the said partnership ,

2. An account of the debts and liabilities of the said partnership ,

3 An account of all dealings and transactions between the plaintiff and defendant, from the foot of the settled account exhibited in this suit and marked (A) and not disturbing any subsequent settled accounts

heretofore  
mention-  
that the

\* may on the application of any of the parties, fix a reserved bidding for all or any of the lots at such sale, and that either of the parties is to be at liberty to bid at the sale.

And it is ordered that the above accounts be taken, and all the other acts required to be done be completed before the day of \_\_\_\_\_ and that the \_\_\_\_\_ do certify the result of the accounts, and that all other acts are completed, and

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\* Here insert name of proper officer.

have his certificate in that behalf ready for the inspection of the parties on the \_\_\_\_\_ day of \_\_\_\_\_

And, lastly, it is ordered that this suit stand adjourned making a final decree to the \_\_\_\_\_ day of \_\_\_\_\_

### No. 22.

## FINAL DECREE IN A SUIT FOR DISSOLUTION OF PARTNERSHIP AND THE TAKING OF PARTNERSHIP ACCOUNTS

(Title.)

It is ordered that the fund now in Court, amounting to the sum of Rs. \_\_\_\_\_, be applied as follows:—

1. In payment of the sum of Rs. \_\_\_\_\_ in the certificate of \_\_\_\_\_

2. In payment of the sum of Rs. \_\_\_\_\_ owing to Rs. \_\_\_\_\_

[These certificates are to be signed by the Court.]

3. In payment of the sum of Rs. \_\_\_\_\_ as his share of the partnership accounts, being the sum of Rs. \_\_\_\_\_ Court to the defendant, \_\_\_\_\_ partner.

be ; the sum of Rs. \_\_\_\_\_ certified to be due to him in respect of the partnership-accounts.]

4. And that the defendant [or plaintiff] do on or before the \_\_\_\_\_ day of \_\_\_\_\_ pay to the plaintiff the sum of Rs. \_\_\_\_\_ being the balance of the sum of Rs. \_\_\_\_\_ due to him, which will remain due.

### No. 23.

## DECREE FOR RECOVERY OF LAND AND MESNE PROFITS

(Title.)

It is hereby decreed as follows:—

(1) That the defendant do put the plaintiff in possession of the property specified in the schedule hereunto annexed.

\* Here insert name of proper officer.

(2) That the defendant do pay to the plaintiff the sum of  
 Rs. \_\_\_\_\_ with interest thereon at the rate of  
 \_\_\_\_\_ per cent per annum to the date of realization on account of the sum  
 which has remained due prior to the institution of the suit,  
 (3)

(2) That an inquiry be made as to the amount of the sum  
 which has remained due prior to the institution of the  
 suit.

(3) That an inquiry be made as to the amount of the sum  
 which has remained due prior to the institution of the suit until the date of the  
 decree holder's application for realization of the sum by  
 his judgment dated \_\_\_\_\_ with notice to the decree holder through the  
 court (the expiration of three years from the date of the  
 decree).

# APPENDIX E.

## EXECUTION.

### No. 1.

NOTICE TO SHOW CAUSE WHY A PAYMENT OR ADJUSTMENT SHOULD NOT BE RECORDED AS CERTIFIED. O. 21 F

(Title.)

To

WHEREAS in execution of the decree in the above-named case has applied to this Court that the sum of Rs. recoverable under the decree has been <sup>paid</sup> ~~must~~, and should be recorded as certified this is to give you notice that you are to appear before this Court on the day of 19 , to show cause why the <sup>payment</sup> ~~adjustment~~ should not be recorded as certified.

GIVEN under my hand and the seal of the Court, this day of 19 .

Judge.

### No. 2.

PRECEPT (Section 46)

(Title.)

Upon hearing the decree-holder it is ordered that this precept be sent to the Court of at under section 46 of the Code of Civil Procedure 1908, with direction to attach the papers specified in the annexed schedule and to hold the same ready for any application which may be made by the decree-holder for execution of the decree.

Schedule.

Dated the

day of

19 July

No. 3

**ORDER SENDING DECREE FOR EXECUTION TO ANOTHER COURT. (O. 21 r. 6.)**

(Title.)

WHEREAS the decree-holder in the above suit has applied to the Court for a certificate to be sent to the Court of \_\_\_\_\_ at \_\_\_\_\_ for execution of the decree in the above suit by the said Court, alleging that the judgment-debtor resides or has property within the local limits of the jurisdiction of the said Court, and it is deemed necessary and proper to send a certificate to the said Court under Order XXI. rule 6 of the Code of Civil Procedure, 1908, it is

*Ordered*

That a copy of this order be sent to \_\_\_\_\_ with a copy of the decree and of any order which may have been made for execution of the same and a certificate of non-satisfaction

Dated the

19

*Judge*

W Q

---

 No. 1

**CERTIFICATE OF NON-SATISFACTION OF DECREE (O. 21. r 6)**

(Title.)

Certified that no (1) satisfaction of the decree of this Court in suit No \_\_\_\_\_ of 19 \_\_\_\_\_, a copy which is hereunto attached, has been obtained by execution within the jurisdiction of this Court

Dated the

day of

19

*Judge*

(1) If partial strike out "no" and state to what extent

I declare that what is stated herein is true to the best of my knowledge and belief.

Signed \_\_\_\_\_, Decree-holder  
Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

[When attachment and sale of immovable property is sought]

*Description and Specification of Property*

The undivided one-third share of the judgment-debtor is house situated in the village of \_\_\_\_\_ value Rs. 100  
bounded as follow \_\_\_\_\_

East by G's house west by H's house south by public road  
north by private lane and J's house.

I declare that what is stated in the above description is true to the best of my knowledge and belief, and  
far as I have been able to ascertain the interest of the defendant  
in the property therein specified

Signed \_\_\_\_\_, Decree-holder  
W. Q. Z.

No. 7

**NOTICE TO SHOW CAUSE WHY EXECUTION SHOULD NOT ISSUE**  
(O 21. r 22.)

(Title)

To

WHEREAS

\_\_\_\_\_ has made application to this Court for execution of decree No. \_\_\_\_\_ of 19\_\_\_\_ on the allegation that the said decree has been transferred to him by assignment, the Court give you notice that you are to appear before this Court

on the \_\_\_\_\_ 19\_\_\_\_ to show cause why execution should not be granted

GIVEN under my hand and the seal of the Court, this

day of 19

Judge

No 8

**WARRANT OF ATTACHMENT OF MOVEABLE PROPERTY IN  
EXECUTION OF A DECREE FOR MONEY (O 21. r 30.)**

( Title )

The Bailiff of the Court

| WHEREAS                                                            |  | was ordered by decree of this Court passed on the |    |
|--------------------------------------------------------------------|--|---------------------------------------------------|----|
| DECREE                                                             |  | day of                                            | 19 |
|                                                                    |  | in Suit No                                        | of |
|                                                                    |  |                                                   | 19 |
| Principal                                                          |  | to pay to the plaintiff the                       |    |
| Interest                                                           |  | sum of Rs as noted                                |    |
| Costs                                                              |  | in the margin, and where                          |    |
| Costs execution                                                    |  | as the said sum of Rs                             |    |
| Further interest                                                   |  | has not been paid, These are                      |    |
|                                                                    |  | to command you to attach                          |    |
|                                                                    |  | the moveable property of the                      |    |
|                                                                    |  | said                                              |    |
|                                                                    |  | as set forth in the schedule                      |    |
| hereunto annexed, or which shall be pointed out to you by the said |  | and unless the said                               |    |
| the said sum of Rs                                                 |  | shall pay to you                                  |    |
| with Rs                                                            |  | together                                          |    |
| of this attachment to hold the same until further orders from      |  | the costs                                         |    |
| his Court                                                          |  |                                                   |    |

You are further  
to  
sent certifying th  
can executed, or why it has not been executed.



GIVEN under my hand and the seal of the Court, the  
day of 19 .

*Schedule*

July

No. 9

**WARRANT FOR SEIZURE OF SPECIFIC MOVEABLE PROPERTY  
ADJUDGED BY DECREE. (O 21, r. 31.)**

*(Title)*

To

The Bailiff of the Court.

WHEREAS

was on

by decree of this Court passed on the  
day of 19 , in Suit No.  
of 19 , to deliver to the plaintiff the moveable property (or  
share in the moveable property) specified  
in the schedule hereunto annexed, and whereas the said property  
(or share) has not been delivered,

These are to command you to seize the said moveable property  
(or a share of the said moveable property)  
and to deliver it to the plaintiff or to such person as he may  
appoint in his behalf

GIVEN under my hand and the seal of the Court, this  
day of 19

*Schedule.*

No. 10.

**NOTICE TO STATE OBJECTIONS TO DRAFT OF DOCUMENT  
(O 21. r. 34)**

*(Title)*

To

TAKEN notice that on the day of 19  
the decree-holder in the above suit presented an application to this  
Court that the Court may execute on your behalf a deed of

ereof a draft is hereunto annexed, of the immoveable property  
 1 specified hereunder, and that the day of 19  
 appointed for the hearing of the said application ; and that  
 1 are at liberty to appear on the said day and to state in writing  
 7 objections to the said draft.

*Description of Property.*

GIVEN under my hand and the seal of the Court this day of  
 19

*Judge.*

---

No. 11

**WARRANT TO THE BAILIFF TO GIVE POSSESSION OF LAND,  
 ETC (O. 21, r. 35 )**

*(Title)*

The Bailiff of the Court

WHEREAS the undermentioned property in the occupancy of  
 is been decreed to the plaintiff in this suit ; You are hereby  
 rected to put the said in possession of the same  
 id you are hereby authorized to remove any person bound by  
 e decree who may refuse to vacate the same

GIVEN under my hand and the seal of the Court, this day of  
 19

*Schedule*

*Judge*

---

No 12

**NOTICE TO SHOW CAUSE WHY WARRANT OF ARREST  
 SHOULD NOT ISSUE (O 21, r. 37 )**

*(Title.)*

WHEREAS has made application to this  
 Court for execution of decree in suit No. of 19 by ✓  
 arrest and imprisonment of your person, you are hereby required

to appear before this Court on the \_\_\_\_\_ day of  
19\_\_\_\_, to show cause why you should not be committed to  
civil prison in execution of the said decree.

GIVEN under my hand and the seal of the Court, this  
day of \_\_\_\_\_ 19\_\_\_\_

*Judge*

No. 13

**WARRANT OF ARREST IN EXECUTION. O 21 r. 38**

(Title.)

In

The Bailiff of the Court

| No.       | WHEREAS<br>of 19____ | was adjudged by a decree of the Court in No.<br>dated the _____ day of _____ 19____, to pay to the |
|-----------|----------------------|----------------------------------------------------------------------------------------------------|
|           |                      | decree-holder the sum of Rs. _____                                                                 |
|           |                      | as noted in the margin of the said decree, and                                                     |
|           |                      | whereas the said sum of Rs. _____                                                                  |
|           |                      | has not been paid to the said                                                                      |
|           |                      | decree-holder in satisfaction of                                                                   |
|           |                      | the said decree, these are the                                                                     |
| Principal |                      | command you to arrest the said                                                                     |
| Interest  |                      | judgment-debtor and unless the                                                                     |
| Costs     |                      | said judgment-debtor shall pay                                                                     |
| Execution |                      | to you the said sum of Rs. _____                                                                   |
|           |                      | together with Rs. _____                                                                            |
|           |                      | for the costs of executing the                                                                     |
|           |                      | process, to bring the said defen-                                                                  |
|           |                      | dant before the Court with all                                                                     |
|           |                      | convenient speed. You are fur-                                                                     |
|           |                      | ther commanded to return the                                                                       |
|           |                      | warrant on or before the                                                                           |
|           |                      | day of _____                                                                                       |
| Total     |                      |                                                                                                    |

19\_\_\_\_, with an endorsement certifying the day on which and  
manner in which it has been executed or the reason why it has  
not been executed

GIVEN under my hand and the seal of the Court, this  
day of 19

*Judge.*

No 14

**WARRANT OF COMMITTAL OF JUDGMENT-DEBTOR TO  
JAIL (O. 21 r 40.)**

*Title*

The Officer in charge of Jail at

WHEREAS who been brought before this  
Court this day of 19, order  
warrant in execution of a decree which was made and pronoun-  
ed by the said Court on the day of  
9, and by which decree it was ordered that the said  
should pay  
beveiled  
discharge  
King-Emperor of India, commanded and required to take and  
receive the said into the civil prison and keep  
him imprisoned therein for

issued, or the said  
be released according to the terms and provisions of section 58 of  
the Code of Civil Procedure, 1908, and the Court does hereby  
in annas per diem as the rate of the monthly  
allowance for the subsistence of the said  
during his confinement under this warrant of committal

GIVEN under my signature and the seal of this Court, this  
day of 19

*Judge*

No. 15.

**ORDER FOR THE RELEASE OF A PERSON IMPRISONED  
IN EXECUTION OF DECREE. (Sections 58, 59)**

(Title)

To

The Officer in charge of the Jail at

Under orders passed this day, you are hereby directed to set  
free judgment-debtor now in your custody.

Dated

Judge

No 16

**ATTACHMENT IN EXECUTION.**

**PROHIBITORY ORDER WHERE THE PROPERTY TO BE  
ATTACHED CONSISTS OF MOVEABLE PROPERTY TO WHICH  
THE DEFENDANT IS ENTITLED SUBJECT TO A LIEN  
RIGHT OF SOME OTHER PERSON TO THE IMMEDIATE  
POSSESSION THEREOF (O 21, r. 46.)**

(Title.)

To

WHEREAS

has failed to satisfy a decree passed against  
day of 19 in Suit No of 19 on the  
in favour of for Rs. ; It  
ordered that the defendant be, and is hereby, prohibited and  
restrained, until the further order of this Court, from receiving  
from the following property in the possession of the  
said that is to say, to which the  
defendant is entitled, subject to any claim of the said  
and the said and restrain  
delivering the

GIVEN under my hand and the seal of the Court, this  
 day of 19 .

*Judge.*

\_\_\_\_\_  
 No. 17.

**ATTACHMENT IN EXECUTION.**

**PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS  
 OF DEBTS SECURED BY NEGOTIABLE INSTRUMENTS  
 (O. 21, r. 46)**

*(Title)*

WHEREAS  
 is failed to satisfy a decree passed against on the  
 day of 19 , in Suit No of 19  
 in favour of , for Rs. , It is ordered that  
 strained, until  
 you a certain  
 said defendant,  
 be, and  
 on are hereby, prohibited and restrained, until the further order  
 of this Court, from making payment of the said debt, or any part  
 hereof, to any person whomsoever or otherwise than into this  
 Court.

GIVEN under my hand and the seal of the Court, this  
 day of 19

*Judge.*

\_\_\_\_\_  
 No. 18

**ATTACHMENT IN EXECUTION**

**PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS  
 OF SHARES IN THE CAPITAL OF A CORPORATION  
 (O. 21, r. 46.)**

*(Title)*

To , Secretary of Defendant, and to  
 Corporation  
 WHEREAS has failed to satisfy a decree passed  
 against on the day of 19 .

in Suit No. \_\_\_\_\_ of 19\_\_\_\_ in favour of \_\_\_\_\_  
 Rs \_\_\_\_\_, It is ordered that you, the defendant, be  
 you are hereby prohibited and restrained, until the further order  
 of this Court, from making any transfer of \_\_\_\_\_ share  
 the aforesaid Corporation namely, \_\_\_\_\_, or from receiving  
 payment of any dividends thereon, and you, \_\_\_\_\_  
 Secretary of the said Corporation, are hereby prohibited  
 restrained from permitting any such transfer or making any  
 payment

GIVEN under my hand and the seal of the Court, this  
 day of \_\_\_\_\_ 19\_\_\_\_

J. J.

### No. 19

### ORDERED TO ATTACH SALARY OF PUBLIC OFFICER OR SERVANT OF RAILWAY COMPANY OR LOCAL AUTHORITY

(O. 24, r. 48.)

(Title.)

To

WHEREAS \_\_\_\_\_, judgment-debtor in the above-mentioned  
 case is a (describe the office of judgment-debtor) receiving his salary  
 (or allowances) at your hands, and whereas \_\_\_\_\_  
 holder in the said case, has applied in this Court for the attachment  
 ment of the salary (or allowances) of the said \_\_\_\_\_ to the  
 extent of \_\_\_\_\_ due to him under the decree; You are hereby  
 required to withhold the said sum of \_\_\_\_\_ from the salary  
 of the said \_\_\_\_\_ in monthly instalments of \_\_\_\_\_  
 to remit the said sum (or monthly instalments) to this Court

GIVEN under my hand and the seal of the Court, this  
 day of \_\_\_\_\_ 19\_\_\_\_

J. J.

No 20.

**ORDER OF ATTACHMENT OF NEGOTIABLE INSTRUMENT**

(O. 21, r. 51 )

(Title )

The Bailiff of the Court

WHEREAS an order has been passed by this Court on the  
day of 19 for the attachment of  
, You are hereby directed to seize the said  
I bring the same into Court.

GIVEN under my hand and the seal of the Court, this  
5 of 19

Judge.

No 21

**ATTACHMENT**

**PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS  
OF MONEY OR OF ANY SECURITY IN THE CUSTODY  
OF A COURT OF JUSTICE OR OFFICER OF  
GOVERNMENT. O 21, r 52**

(Title )

The plaintiff having applied, under rule 22 of Order XXI of  
the Code of Civil Procedure, 1908, for an attachment of certain  
money now in your hands (*here state how the money is supposed  
to be in the hands of the person addressed, on what account, etc.*),  
request that you will hold the said money subject to the further  
order of this Court

I have the honour to be

SIR,

Your most obedient Servant

Dated the day of 19

Judge.



No. 22

NOTICE OF ATTACHMENT OF A DECREE TO THE COURT  
WHICH PASSED IT. (O 21, r. 53.)

(Title)

Fe

### The Judge of the Court

511

I have the honour to inform you that the decree obtained in your Court on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, in Suit No \_\_\_\_\_ of 19\_\_\_\_, in which he was \_\_\_\_\_ and \_\_\_\_\_ was \_\_\_\_\_ has been attached by this Court on the application of \_\_\_\_\_ the \_\_\_\_\_ in the suit specified above \_\_\_\_\_ of \_\_\_\_\_ last \_\_\_\_\_ the \_\_\_\_\_ night \_\_\_\_\_

be executed on by his judgment-debtor.

I have the honour, etc.

Date the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

No. 23

NOTICE OF ATTACHMENT OF A DECREE TO THE  
HOLDER OF THE DECREE. (O 21, r 53)

(Title.)

 $\dot{f}_{\text{ca}}$ 

WHEREAS an application has been made in this Court by the decree-holder in the above suit for the attachment of a decree obtained by you on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, in the Court of \_\_\_\_\_ in Suit No. \_\_\_\_\_ of 19\_\_\_\_ in which \_\_\_\_\_ was \_\_\_\_\_ and \_\_\_\_\_ was \_\_\_\_\_; It is ordered that you, the said \_\_\_\_\_, do, and you are hereby prohibited and restrained, until the further order of this Court, from transferring or charging the same in any way.

GIVEN under my hand and the seal of the Court, this      day of  
19      .

*Judge.*

            
No 24.

**ATTACHMENT IN EXECUTION**

**PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS  
OF IMMOVEABLE PROPERTY (O 21, § 54.)**

*(Title )*

To

Defendant.

WHEREAS you have failed to satisfy a decree passed against you  
on the      day of      19      , in Suit No      of 19      , in  
favour of      for Rs      ; It is ordered that  
you, the said      , be, and you are hereby, prohibi-  
ted and restrained, until the further order of this Court, from  
transforming or changing the property specified in the schedule  
otherwise, and that all persons  
be prohibited from receiving the same

seal of the Court, this

day of      19      .

*Judge*

*Schedule*

            
No 25

**ORDER FOR PAYMENT TO THE PLAINTIFF, ETC., OF MONEY,  
ETC., IN THE HANDS OF A THIRD PARTY (O 21, r. 56)**

*(Title )*

To

WHEREAS the following property      has been attached  
in execution of a decree in Suit No      of      19      .  
passed on the      day of      19      .  
in favour of      , for Rs.      . It is ordered that  
the property so attached, consisting of Rs      in money

and its. in currency-notes, or a sufficient part thereof  
to satisfy the said decree, shall be paid over by you, the said  
to -

GIVEN under my hand the seal of and the Court, this  
19

Judge

No. 26.

**NOTICE TO ATTACHING CREDITOR. (O. 21, r. 58)**  
(Title)

To

WHEREAS has made application to this Court for  
the removal of attachment on placed at foot  
instance in execution of the decree in Suit No. of 1  
, this is to give you notice to appear before this Court  
the day of 19, either in person  
or by a pleader of the Court duly instructed to support your  
claim, as attaching creditor

GIVEN under my hand and the seal of the Court, this  
day of 19

Judge

No. 27

**WARRANT OF SALE OF PROPERTY IN EXECUTION OF  
A DECREE FOR MONEY. (O. 21, r. 68)**  
(Title)

To

The Bailiff of the Court

THESE are to command you to sell by auction, after giving  
days previous notice, by affixing the same in the

Court-house, and after making due proclamation, the property attached under a warrant from this Court, dated the                      day of 19                      , in execution of a decree in favour of                      in Suit No                      of 19                      ' or so much of the said property as shall realize the sum of Rs.                      , being the                      of the said decree and costs still remaining unsatisfied

You are further commanded to return this warrant on or before the                      day of                      19                      , with an endorsement certifying the manner in which it has been executed, or the reason why it has not been executed

GIVEN under my hand and the seal of the Court, this day of                      19                     

*Judge.*

---

No 28

**NOTICE OF THE DAY FIXED FOR SETTLING A SALE  
PROCLAMATION (O 21, r 66)**

*(Title )*

To

WHEREAS in the above-named suit Judgment-debtor. the decree-holder has applied for the sale of                      , You are hereby informed that the                      day of                      19                      has been fixed for settling the terms of the proclamation of sale.

GIVEN under my hand and the seal of the Court, this day of                      19                     

*Judge.*

---

No 29.

**PROCLAMATION OF SALE O 21, r 66 )**

*(Title )*

To

Notice is hereby given that, under rule 64 of Order XXI of the Code of Civil Procedure, 1908, an order has been passed by-

thus Court for the sale of the attached property mentioned in the annexed schedule, in satisfaction of the claim of the decree holder

Suit No. of 19  
decided by the

of in which  
was plaintiff and  
was defendant.

in the suit (1) mentioned in the margin, amounting with cost and interest up to date of sale to the sum of

The sale will be by public auction, and the property will be put up for sale in the lots specified in the schedule. The sale will be of the property of the judgment-debtors above-named and mentioned in the schedule below, and the liabilities and claims attaching to the said property, so far as they have been ascertained, are those specified in the schedule against each lot.

In the absence of any order of postponement, the sale will be held by at the monthly sale commencing at

o'clock on the at

In the event, however, of the debt above specified and of the costs of the sale being tendered or paid before the knocking down of any lot, the sale will be stopped.

At the sale the public generally are invited to bid, either personally or by duly authorized agent. No bid by, or on behalf of, the judgment creditors above-mentioned, however, will be accepted, nor will any sale to them be valid without the express permission of the Court previously given. The following are the further

#### *Conditions of Sale.*

1. The particulars specified in the schedule below have been stated to the best of the information of the Court, but the Court will not be answerable for any error, mis-statement or omission in this proclamation.

2. The amount by which the biddings are to be increased shall be determined by the officer conducting the sale. In the event of any dispute arising as to the amount bid, or as to the bidder, the lot shall at once be again put up to auction.

3. of any and pr officer holding the sale to decline acceptance of the highest bid the purchaser qualified to bid if the Court or

hen the price offered appears so clearly inadequate as to make advisable to do so.

4. For reasons recorded, it shall be in the discretion of the officer conducting the sale to adjourn it subject always to the provisions of rule 69 of Order XXI.

5. In the case of moveable property, the price of each lot shall be paid at the time of sale or as soon after as the officer holding the sale directs, and in default of payment the property shall forthwith be again put up and re-sold.

6. In the case of immoveable property, the person declared to be the purchaser shall pay immediately after such declaration a deposit of 25 per cent on the amount of his purchase-money to the officer conducting the sale, and in default of such deposit the property shall forthwith be put up again and re-sold.

7. The full amount of the purchase-money shall be paid by the purchaser before the Court closes on the fifteenth day after the sale of the property, exclusive of such day, or if the fifteenth day be a Sunday or other holiday, then on the first office day after the fifteenth day.

8. In default of payment of the balance of purchase-money

to the property or to any part of the sum for which it may be subsequently sold

GIVEN under my hand and the seal of the Court, this  
day of 19 .

*Judge*

*Schedule of property.*

| Number of lot | Description of property to be sold, with the name of each owner where there is more than one | The revenue assessed upon the estate or part of the estate, if the property to be sold is an interest in an estate or a part of an estate paying revenue to Government | Detail of any incumbrances to which the property is liable. | Claims, if any, which have been put forward to the property, and any other known particulars bearing on its nature and value |
|---------------|----------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
|               |                                                                                              |                                                                                                                                                                        |                                                             |                                                                                                                              |

No 30.

**ORDER ON THE NAZIR FOR CAUSING SERVICE OF  
PROCLAMATION OF SALE (O. 21. r 66)**

(Title)

To

The Nazir of the Court

WHEREAS an order has been made for the sale of the property of the judgment-debtor specified in the schedule hereto annexed, and whereas the day of \_\_\_\_\_ 19\_\_\_\_ has been fixed for the sale of the said property, the proclamation of sale are by this warrant made me to you and you are hereby ordered to have the proclamation published

by beat of drum within each of the properties specified in the said schedule, to affix a copy of the said proclamation on a conspicuous part of each of the said properties and afterwards on the courts house, and then to submit to this Court a report showing the dates on which and the manner in which the proclamations have been published.

Dated the                      day of                      19 .  
SCHEDULE

*Judge*

                      
No 31.

**CERTIFICATE BY OFFICER HOLDING A SALE OF THE  
DEFICIENCY OF PRICE ON A RE-SALE OF PROPERTY  
BY REASON OF THE PURCHASER'S DEFAULT  
(O. 21, r 71.)**

*(Title)*

Certified that at the re-sale of the property in execution of the decree in the above-named suit, in consequence of default on the part of                      purchaser, there was a deficiency in the price of the said property amounting to Rs.                      and that the expenses attending such re-sale amounted to Rs.                      , making a total Rs.                      , which sum is recoverable from the defaulter.

Dated the                      day of                      19  
*Officer holding the sale.*

                      
No. 32

**NOTICE TO PERSON IN POSSESSION OF MOVEABLE PROPERTY  
SOLD IN EXECUTION (O 21, r. 79.)**

*(Title.)*

To

WHEREAS  
has become the purchaser at a public sale in execution of the decree in the above suit of                      now in



your possession, you are hereby prohibited from delivering or  
 sion of the said  
 person except the said

GIVEN under my hand and the seal of the Court, this  
 day of 19

J. J.

---

 No. 33

**PROHIBITORY ORDER AGAINST PAYMENT OF DEBTS SOLD  
 IN EXECUTION TO ANY OTHER THAN THE  
 PURCHASER (O 21, r. 79.)**

(Title)

To

and to

WHEREAS

become the purchaser at a public sale in execution of the debt  
 in the above suit of being debts due from F.  
 to you

It is ordered that you  
 are hereby prohibited from receiving, and you  
 from making payment of the said debt to any person or persons  
 except the said

GIVEN under my hand and the seal of the Court, this  
 day of 19

J. J.

---

 No. 34

**PROHIBITORY ORDER AGAINST THE TRANSFER OF  
 SHARES SOLD IN EXECUTION (O 21, r. 79)**

(Title)

To

and

Secretary

(Corporation)

WHEREAS \_\_\_\_\_ has become the purchaser at a public sale in execution of the decree, in the above suit, of certain shares in the above Corporation, that is to say, of \_\_\_\_\_ standing in the name of you  
; It is ordered that you

be, and you are hereby, prohibited from making any transfer of the said shares to any person except the said \_\_\_\_\_ the purchaser aforesaid, or from receiving any dividends thereon and you \_\_\_\_\_ Secretary of the said Corporation from permitting any such transfer or making any such payment to any person except the said \_\_\_\_\_, the purchaser aforesaid

GIVEN under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

*Judge*

\_\_\_\_\_  
No 35

**CERTIFICATE TO JUDGMENT-DEBTOR AUTHORIZING  
HIM TO MORTGAGE, LEASE OR SELL PROPERTY.**  
(O. 21 r 83 )

*(Title)*

WHEREAS in execution of the decree passed in the above suit an order was made on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ for the sale of the under mentioned property of the judgment-debtor \_\_\_\_\_, and whereas the Court has, on the application of the said judgment debtor, postponed the said sale to enable him to raise the amount of the decree by mortgage, lease or private sale of the said property or of some part thereof

This is to certify that the Court doth hereby authorize the said judgment-debtor to make the proposed mortgage, lease or sale within a period of \_\_\_\_\_ from the date of this certificate, provided that all monies payable under such mortgage, lease or sale shall be paid into this Court and not to the said judgment-debtor

*Description of property.*

GIVEN under my hand and the seal of the Court, this  
day of 19 .

*Judge*

            
No. 36

**NOTICE TO SHOW CAUSE WHY SALE SHOULD NOT BE  
SET ASIDE. (O. 21, rr. 90, 92)**

*(Title)*

To,

WHEREAS the under-mentioned property was sold on the  
day of 19 .

in this Court on the day of 19  
the said application will be heard and determined.

GIVEN under my hand and the seal of the Court, this  
day of 19

*Description of property.*

*Judge*

            
No. 37.

**NOTICE TO SHOW CAUSE WHY SALE SHOULD NOT BE  
SET ASIDE. (O. 21, rr. 91, 92.)**

*(Title)*

To

WHEREAS  
under-mentioned property sold on the

the purchaser of the  
day of 19

in execution of the decree passed in the above-named  
 . . . . . rt to set aside the sale of the said pro-  
 , the judgment-debtor, had

Take notice that if you have any cause to show why the said  
 plication should not be granted, you should appear with your  
 oofs in this Court on the                      day of                      19  
 en the said application will be heard and determined.

GIVEN under my hand and the seal of the Court, this  
 y of                      19

*Description of property.*

*Judge*

\_\_\_\_\_  
 No 38.

**CERTIFICATE OF SALE OF LAND. O 21, r 94.)**

*(Title)*

*This is to certify that*                      *has been declared the*  
*urchaser at a sale by public auction on the*                      *day of*

in execution of decree in this suit, and  
 hat the said sale has been duly confirmed by this Court

GIVEN under my hand and the seal of the Court, this  
 lay of                      19

*Judge*

\_\_\_\_\_  
 No. 39

**ORDER FOR DELIVERY TO CERTIFIED PURCHASER OF LAND  
 AT A SALE IN EXECUTION. (O, 21, r 95)**

*(Title)*

To

The Bailiff of the Court,  
 WHEREAS                      has become the certified purchaser of  
 at a sale in execution of decree in Suit No                      of 19

, You are hereby ordered to put the said purchaser, as aforesaid, in possession of the same  
 GIVES under my hand and the seal of the Court, this  
 day of 19 .

*Judge*

---

NO 40.

**SUMMONS TO APPEAR AND ANSWER CHARGE OF  
 OBSTRUCTING EXECUTION OF DECREE**

(O 21, r 92,)

(Title)

To

WHEREAS the decree-holder in the  
 above suit, has complained to this Court that you have re-  
 [or obstructed] the officer charged with the execution of the  
 warrant for possession :

You are hereby summoned to appear in this Court on the  
 day of 19 at a.m., to answer the  
 complaint

GIVES under my hand and the seal of the Court this  
 day of 19

*Judge*

---

No 41.

**WARRANT OF COMMITTAL. (O. 21 r 93)**

(Title.)

To

The Officer in Charge of the Jail at  
 WHEREAS the undermentioned property has been decreed  
 the plaintiff in this suit, and whereas the Court  
 satisfied that without any just cause resisted  
 obstructed] and is still resisting [or obstructing] the said

in obtaining possession of the property, and whereas the said  
 has made application to this Court that the said  
 be committed to the civil prison .

You are hereby commanded and required to take and receive  
 e said into the civil prison and to keep him impris-  
 ned therein for the period of days.

GIVEN under my hand and the seal of the Court, this  
 y of 19

*Judge.*

---

No 42

**AUTHORITY OF THE COLLECTOR TO STAY PUBLIC SALE  
 OF LAND (Section 72 )**

( Title )

Collector of

In answer to your communication No , dated

representing that the sale in execution of the  
 land situate within your  
 honour to inform you that you  
 or the satisfaction of the said  
 decree in the manner recommended by you

I have the honour to be,

Sir

Your obedient Servant,

*Judge*

---

; You are hereby ordered to put the said  
 purchaser as aforesaid, in possession of the same  
 Given under my hand and the seal of the Court, this  
 day of 19

Judge

---

NO 10.

**SUMMONS TO APPEAR AND ANSWER CHARGE OF  
 OBSTRUCTING EXECUTION OF DECREE**

(O 21, r 92.)

(Title)

To

Whereas the decreet-holder in  
 above suit, has complained to this Court that you have re-  
 [or obstructed] the officer charged with the execution of  
 warrant for possession.

You are hereby summoned to appear in this Court on the  
 day of 19 at 1.4. to answer the  
 complaint

Given under my hand and the seal of the Court this  
 day of 19

Judge

---

No 41.

**WARRANT OF COMMITTAL. (O. 21 r 96)**

(Title)

To

The Officer in Charge of the Jail at  
 Whereas the undermentioned property has been decreed  
 to the plaintiff in this suit, and whereas the Court  
 satisfied that without any just cause resisted  
 obstructed] and is still resisting [or obstructing] the said

No 2.

**CURITY FOR APPEARANCE OF A DEFENDANT ARRESTED  
BEFORE JUDGMENT. (O 38, r 2.)**

(Title.)

WHEREAS at the instance of \_\_\_\_\_ the plaintiff in the  
the suit, \_\_\_\_\_ the defendant, has been arrested and  
brought before the Court ;

And whereas on the failure of the said defendant to show  
why he should not furnish security for his appearance, the  
Court has ordered him to furnish such security

Therefore I \_\_\_\_\_ have voluntarily become surety and do  
by hind myself, my heirs and executors, to the said Court,  
that the said defendant shall appear at any time when called upon  
while the suit is pending and until satisfaction of any decree that  
may be passed against him in the said suit, and in default of  
\_\_\_\_\_ executors, to pay to \_\_\_\_\_  
\_\_\_\_\_ that may be ad-

Witness my hand at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_

Witnesses \_\_\_\_\_ (Signed )

1

2

No. 3.

**SUMMONS TO DEFENDANT TO APPEAR ON SURETY'S  
APPLICATION FOR DISCHARGE (O 38, r. 3.)**

(Title )

WHEREAS \_\_\_\_\_ who became surety on the  
behalf of \_\_\_\_\_ 19 \_\_\_\_\_, for your appearance in the above suit,  
has applied to this Court to be discharged from his obligation :



You are hereby summoned to appear in this Court on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, at \_\_\_\_\_ A. M. P.  
the said application will be heard and determined.

GIVEN under my hand and the seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

Jd'

---

No 4

**ORDER FOR COMMITTAL (O. 38, r. 4)**

(Title)

To

WHEREAS \_\_\_\_\_, plaintiff in this suit, has made application to the Court that security be taken for the appearance of \_\_\_\_\_, the defendant, to answer any judgment that may be passed against him in the suit, and whereas the Court has called upon the defendant to furnish such security, or to offer sufficient deposit in lieu of security, which he has failed to do, it is ordered that the said defendant \_\_\_\_\_ be committed to the civil prison until the decision of the suit; or, if judgment is pronounced against him, until satisfaction of the decree.

GIVEN under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

Jd'

---

No 5

**ATTACHMENT BEFORE JUDGMENT, WITH ORDER TO CALL FOR SECURITY FOR FULFILMENT OF DECREE**

(O. 38, r. 5)

(Title)

To

The Bailiff of the Court.

WHEREAS \_\_\_\_\_ has proved to the satisfaction of the Court that the defendant in the above suit

These are to command you to call upon the said defendant  
on or before the day of 19  
either to furnish security for the sum of rupees to  
produce and place at the disposal of this Court when required  
or the value thereof, or such portion of the value  
as may be sufficient to satisfy any decree that may be passed  
against him; or to appear and show cause why he should not  
furnish security; and you are further ordered to attach the said  
and keep the same under safe and secure custody  
until the further order of the Court, and you are further com-  
manded to return this warrant on or before the  
day of 19, with an endorsement certifying the date  
on which and the manner in which it has been executed, or the  
reason why it has not been executed

GIVEN under my hand and the seal of the Court, this  
day of 19

*Judge*

No 6.

### SECURITY FOR THE PRODUCTION OF PROPERTY.

(0 38, r 5)

( Title )

WHEREAS at the instance of \_\_\_\_\_, the plaintiff in the above suit, \_\_\_\_\_ the defendant, has been directed by the Court to furnish security in the sum of Rs \_\_\_\_\_ to produce and place at the disposal of the Court the property specified in the schedule herunto annexed.

Therefore I have voluntarily become surety and do hereby bind myself, my heirs and executors, to the said Court that the said defendant shall produce and place at the disposal of the Court, when required, the property specified in the said order, to the end that the said Court may do justice between me and the said defendant, and may award to the said defendant such sum of money as the said Court may think fit, not exceeding the said sum of Rs. 1000/- or such sum not exceeding the said sum as the said Court may adjudge.

You are hereby summoned to appear in this Court in P.N.  
 on the                      day of                      19                      , at                      A. M. P.  
 the said application will be heard and determined.

GIVEN under my hand and the seal of the Court, this  
 day of                      19                      J.P.

---

No 1

**ORDER FOR COMMITTAL** (O. 38, r. 4)  
 (Title)

To

WHEREAS                      , plaintiff in this suit, has made ap-  
 plication to the Court that security be taken for the appearance  
                     , the defendant, to answer any judgment that  
 he passed against him in the suit, and whereas the Court  
 called upon the defendant to furnish such security, or to offer  
 sufficient deposit in lieu of security, which he has failed to do,  
 is ordered that the said defendant                      be committed  
 the civil prison until the decision of the suit, or, if judgment  
 pronounced against him, until satisfaction of the decree

GIVEN under my hand and the seal of the Court, this  
 day of                      19                      J.P.

---

No 2

**ATTACHMENT BEFORE JUDGMENT, WITH ORDER TO CALL  
 FOR SECURITY FOR FULFILMENT OF DECREE**  
 (O. 38, r. 5)

(Title)

To

The Bailiff of the Court

WHEREAS                      has proved to the satisfaction of  
 Court that the defendant in the above suit



*Schedule*

Witness my hand at                      this                      day of

19                      .

Witness                      (Signed)

1

2

No. 7.

**ATTACHMENT BEFORE JUDGMENT, ON PROOF OF FAILURE  
TO FURNISH SECURITY. (O 38 r 6)**

(Title.)

To

The Bailiff of the Court.

WHEREAS                      the plaintiff in this suit, has ap-  
plied to the Court to call upon                      the defend-  
to furnish security to fulfil any decree that may be passed against  
him in the suit and whereas the Court has called upon the                      to  
to furnish such security, which he has failed to  
do These are to command you to attach                      the  
property of the said                      and keep the same in  
safe and secure custody until the further order of the Court; and  
you are further commanded to return this warrant on or before  
the                      day of                      19                      , with an endorsement  
certifying the date on which and the manner in which it has been  
executed, or the reason why it has not been executed

(GIVEN under my hand and the seal of the Court, this  
day of                      19                      )

*Judge.*

No. 8

**TEMPORARY INJUNCTIONS (O. 39, r 1)**

(Title.)

Here mention                      .

*Plaintiff*  
*Defendant*  
*Witness*

plaint filed in this suit on the \_\_\_\_\_ day of \_\_\_\_\_, or  
the written statement of the said plaintiff filed on the  
day of \_\_\_\_\_ ] and upon hearing the evidence of \_\_\_\_\_  
and defer \_\_\_\_\_

C. D.] This Court doth order that an injunction be awarded to and workmen  
the house in  
[or, in the

written &  
aring &  
ndupu  
aterial:  
is suit or until the further order of this Court

Dated this                      day of                      19                      Judge.

[Where the injunction is sought to restrain the negotiation of note or bill, the ordering part of the order may run thus - ]

to restrain the defendants and  
from parting with out of the custody of them  
any of them or endorsing, assigning or negotiating the pro-  
cessory note [or bill of exchange] in question, dated on or about  
e , etc., mentioned in the plaintiff's  
aint [or petition] and the evidence heard at this motion until  
a hearing of this suit or until the further order of this Court

[In Copyright cases]                      to restrain the  
printing.

[or which is contained in page \_\_\_\_\_ to page \_\_\_\_\_  
both inclusive] until \_\_\_\_\_, etc.,

*[In Patent cases]*

C. D., his agent \_\_\_\_\_ to restrain the defendant  
any perforated \_\_\_\_\_ making or reading  
of the invention \_\_\_\_\_ principally  
\_\_\_\_\_ on, etc.,  
\_\_\_\_\_ plaintiffs, C.  
\_\_\_\_\_ as  
mentioned, and from counterfeiting, imitating or resembling the said  
inventions, or either of them, or making any addition thereto, or  
subtraction therefrom, until the hearing, etc.,

*[In cases of Trade marks]*

defendant C. D., his servants, agents or workmen, from selling  
or exposing for sale, or procuring to be sold, any composition or  
blackening [or as the case may be] described as or purporting to be  
blackening manufactured by the plaintiff A. B., in bottles having  
affixed thereto such labels as in the \_\_\_\_\_ or petal  
etc. \_\_\_\_\_ used in  
composition  
composition

\_\_\_\_\_ by the defendant in  
factured or sold by \_\_\_\_\_, and the etc.

*[To restrain a partner from in any way interfering in the  
business]*

C. D. his servant and agents, from entering into any contract, and  
from accepting, drawing, endorsing or negotiating any bill of  
exchange in the name of the partnership  
debt, buying or  
into any verbal  
and from doing  
or causing to be done, any act, in the name or on the credit of  
the said partnership-firm of B. and D., or whereby the said part-  
nership-firm can or may in any manner become or be made liable

or for the payment of any sum of money, or for the performance of any contract, promise or undertaking until the, etc.

---

No 9.

**APPOINTMENT OF A RECEIVER. (O. 40, r. 1)**

(Title.)

Whereas \_\_\_\_\_ has been attached in execution of decree passed in the above suit on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, in favour of \_\_\_\_\_, You are hereby (subject to your giving security to the satisfaction of the Court) appointed receiver of the said property under Order XL of the Code of Civil Procedure, 1908, with full powers under the provisions of that Order.

You are required to render a due and proper account of your receipts and disbursements in respect of the said property on \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. You will be entitled to remuneration at the rate of \_\_\_\_\_ per cent. upon your receipts under the authority of this appointment.

GIVEN under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Judge.

---

No 10

**BOND TO BE GIVEN BY RECEIVER (O 40, r. 3.)**

(Title.)

Know all men by these presents, that we \_\_\_\_\_ and \_\_\_\_\_ of the Court of \_\_\_\_\_ in Rs \_\_\_\_\_ to be paid to the said \_\_\_\_\_ or his successor in office for the time being. For which payment to be made we bind ourselves, and each of us, in the whole, our and each of our heirs, executors



and administrators, jointly and severally, by these present.

Dated this                      day of                      19

Where as a plaint has been filed in this Court by  
against                      for the purpose of [here insert the d.  
of suit

And whereas the said                      has been appointed,  
order of the above mentioned Court, to receive the rents &  
profits of the immoveable property and to get in the outstand-  
ing immoveable property of                      in the said plaint named.

Now the condition of this obligation is such, that if the ab-  
bouden                      shall duly account for all and every  
sum and sums of money which he shall so receive on account  
the rents and profits of the immoveable property, and in respect  
the moveable property of the said                      at such period  
as the said Court                      the latest  
which shall                      has  
the said Court                      been  
obligation of                      force

Signed and delivered by the above bounden in the presence  
of

Note - If deposit of money is made, the memorandum there-  
should follow the terms of the condition of the bond.

**APPENDIX G.**  
**APPEAL, REFERENCE AND REVIEW.**

**No. 1.**

**MEMORANDUM OF APPEAL., (O. 41, r. 1.)**

*(Title)*

Above named of appeals to the

Court at \_\_\_\_\_ from the decree of

in Suit No. \_\_\_\_\_ of 19 \_\_\_\_\_, dated the

day of \_\_\_\_\_ 19 \_\_\_\_\_, and sets forth the following

grounds of objection to the decree appealed from, namely -

**No 2**

**SECURITY BOND TO BE GIVEN ON ORDER BEING MADE TO  
STAY EXECUTION OF DECREE (O 41, r 5)**

*(Title)*

This security bond on stay of execution of decree executed  
witnesseth -

That \_\_\_\_\_, the plaintiff in Suit No \_\_\_\_\_ of 19  
\_\_\_\_\_, having sued \_\_\_\_\_, the defendant in this Court and a  
decree having been passed on the \_\_\_\_\_ day of \_\_\_\_\_ 19  
\_\_\_\_\_, the defendant having  
the

\_\_\_\_\_ having applied to execute  
the decree, the defendant has made an application praying for  
stay of execution and has been called upon to furnish security.  
Accordingly I, of my own free will, stand security to the extent  
of \_\_\_\_\_, mortgaging the properties specified in the  
Schedule hereunto annexed, and covenant that if the decree of  
the first Court be confirmed or varied by the Appellate Court  
the said defendant shall duly act in accordance with the decree  
of the Appellate Court and shall pay whatever may be payable  
by him thereunder, and if he should fail therein then any amount

so payable shall be realized from the properties hereby mortgaged and if the proceeds of the sale of the said properties are insufficient to pay the amount due, I and my legal representatives will be personally liable to pay the balance. To this effect I execute this security bond this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

Schedule

Witnessed by

(Signed)

1

2

No. 3

# SECURITY BOND TO BE GIVEN DURING THE PENDENCY OF APPEAL. (O. 41, r. 6.)

(Title)

To

This security bond on stay of execution of decree executed by \_\_\_\_\_ witnesseth  
That \_\_\_\_\_, the plaintiff in Suit No. \_\_\_\_\_ of 19\_\_\_\_  
\_\_\_\_\_, having sued \_\_\_\_\_, the defendant, in this Court  
and a decree having been passed on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
preferring an appeal from the said decree, and having obtained a stay of execution of the said decree from the Court.

Now the plaintiff decree-holder has applied for execution of the said decree and has been called upon to furnish security. Accordingly I of my own free will, stand security to the extent of Rs. \_\_\_\_\_ mortgaging the properties specified in the schedule hereunto annexed, and covenant that if the decree of the first Court be reversed or varied by the Appellate Court the plaintiff shall restore any property which may be or have been taken in execution of the said decree and shall duly act in accordance with the orders of the Court and shall pay whatever may be ordered by the Court if he should fail therein then I shall be personally liable to pay the properties hereby mortgaged, and if the proceeds of the sale of the said properties are insufficient to pay the amount due.

I and my legal representatives will be personally liable to pay the balance. To this effect I execute this security bond this day of 19 .

*Schedule.*

Witnessed by

1.  
2.

(Signed)

\_\_\_\_\_  
No. 1

**SECURITY FOR COSTS OF APPEAL. (O 41, r. 10)**

*(Title )*

To

The security bond for costs of appeal executed by  
witnesseth :

This appellant has preferred an appeal from the decree in Suit No. \_\_\_\_\_ of 19 \_\_\_\_\_, against the respondent, and has been called upon to furnish security. Accordingly I, of my own free will, stand security for the costs of the appeal, mortgaging the properties specified in the schedule hereunto annexed. I shall not transfer the said properties or any part thereof, and in the event of any default on the part of the appellant I shall duly carry out any order that may be made against me.

Any amount so  
by mortgaged,  
are insufficient.  
representatives will  
ect I execute

this security bond this \_\_\_\_\_ day of 19 \_\_\_\_\_.

*Schedule.*

Witnessed by

1.  
2.

(Signed)

## No 5.

INTIMATION TO LOWER COURT OF ADMISSION OF APPEAL

(O, 41, r. 13.)

(Title.)

To

You are hereby directed to take notice that in the above suit, has preferred an appeal to this Court from the decree passed by you therein on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

You are requested to send with all practicable despatch material papers in the suit

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
Judge

## No. 6.

NOTICE TO RESPONDENT OF THE DAY FIXED FOR THE HEAR

OF THE APPEAL (O. 41, r. 14.)

(Titre.)

APPEAL from the \_\_\_\_\_ of the Court of  
dated the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

To

Respondent in this  
this C  
red be

Court for the hearing of this appeal

If no appearance is made on your behalf, by yourself, pleader, or by some one by law authorized to act for you in appeal, it will be heard and decided in your absence.

GIVEN under my hand and the seal of the Court, this  
day of 19 . Judge

[Note.—If a stay of execution has been ordered, notice should be given of the fact on this notice.]

## No 7

**NOTICE TO A PARTY TO SUIT NOT MADE A PARTY TO THE  
APPEAL BUT JOINED BY THE COURT AS A RESPONDENT.**  
(O 41. r. 20.)

(Title)

WHEREAS you were a party in Suit No. \_\_\_\_\_ of 19 \_\_\_\_\_  
in the Court of \_\_\_\_\_, and whereas the \_\_\_\_\_ has pre-  
ferred an appeal to this Court from the decree passed against  
him in the said suit and it appears to this Court that you are  
interested in the result of the said appeal.

\_\_\_\_\_ has directed you to  
\_\_\_\_\_ has adjourned the  
\_\_\_\_\_ of \_\_\_\_\_ 19 \_\_\_\_\_  
at \_\_\_\_\_ v. v. If no appearance is made on your behalf on  
the said day and at the said hour, the appeal will be heard and  
decided in your absence.

GIVEN under my hand and the seal of the Court, this  
day of \_\_\_\_\_ 19 \_\_\_\_\_

Judge.

## No 8

**MEMORANDUM OF CROSS OBJECTION.** (O 41. r. 22.)

(Title.)

WHEREAS the \_\_\_\_\_ has preferred an appeal to the  
Court at \_\_\_\_\_ from the decree of \_\_\_\_\_ in  
Suit No. \_\_\_\_\_ of 19 \_\_\_\_\_, dated the \_\_\_\_\_ day of  
19 \_\_\_\_\_, and whereas notice of the day fixed for hearing the appeal  
was served on the \_\_\_\_\_ on the \_\_\_\_\_ day of  
19 \_\_\_\_\_, the \_\_\_\_\_  
under rule 22 of Ord.  
and sets forth the fol  
appealed from namely :-

No. 9.

**DECREE IN APPEAL.** (O 41, r. 35.)

(Title.)

Appeal No.  
Court ofof 19  
dated thefrom the decree of  
day of 19 .*Memorandum of Appeal.*Plaintiff,  
DefendantThe  
Court at  
sue, dated the  
ing reasons, namelyabove-named appeals to the  
from the decree of  
day ofin the above  
19 , for the followThis appeal coming on for hearing on the  
19 , before  
for the appellant and of  
of pondent, it is ordered—day of  
, in the presence  
for the reThe costs of this appeal as detailed below, amounting to Rs  
, are to be paid by  
The costs of the original  
suit are to be paid by

(Given under my hand this

day of 19 .

Judge

*Costs of Appeal*

| Appellant                     | Amount |    |    | Respondent           | Amount |    |    |
|-------------------------------|--------|----|----|----------------------|--------|----|----|
|                               | Rs.    | a. | p. |                      | Rs.    | a. | p. |
| 1 Stamp for memorandum appeal |        |    |    | Stamp for power      |        |    |    |
| 2 Do for power                |        |    |    | Do for petition      |        |    |    |
| 3 Service of processes        |        |    |    | Service of processes |        |    |    |
| 4 Pleader's fee on Rs.        |        |    |    | Pleader's fee on Rs. |        |    |    |
| Total                         |        |    |    | Total                |        |    |    |

No. 10

**APPLICATION TO APPEAL IN FORMA PAUPERIS.**

(O. 44, r. 1)

(Title)

I, \_\_\_\_\_ the \_\_\_\_\_ above-named, present the accompanying memorandum of appeal from the decree in the above suit and apply to be allowed to appeal as a pauper.

Annexed is a full and true schedule of all the moveable and moveable property belonging to me with the estimated value thereof.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

(Signed.)

*Note.*—Where the application is by the plaintiff he should state whether he applied and was allowed to sue in the Court of first instance as a pauper.

No. 11

**NOTICE OF APPEAL IN FORMA PAUPERIS. (O. 44, r. 1.)**

(Title)

WHEREAS the above named \_\_\_\_\_ has applied to be allowed an appeal as a pauper from the decree in the above suit dated the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_, and whereas the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ has been fixed for hearing the application, notice is hereby given to you that if you desire to show cause why the applicant should not be allowed to appeal as a pauper an opportunity will be given to you for doing so on the afore-mentioned date.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

*Judge.*



( 124 )

No 12.

NOTICE TO SHOW CAUSE WHY A CERTIFICATE OF APPEAL  
TO THE KING IN COUNCIL SHOULD NOT BE GRANTED

0.45, r. 3)

*Title.*

T<sub>0</sub>

Please note that

has appl  
or value  
tion 110  
wide d fit

The day of 9 is fixed for you to show cause why the Court should not grant the certificate asked for.

Given under my hand and the seal of the Court, this  
day of 19

Regulation

No 13

NOTICE TO RESPONDENT OF ADMISSION OF APPEAL TO  
THE KING IN COUNCIL. (O. 45, r 8)

*(Title.)*

To

WHEREAS

WHEREAS \_\_\_\_\_, in the above case, has furnished the security and made the deposit required by Order XLV, rule 7, of the Code of Civil Procedure, 1908

Take notice that the appeal of the said Majesty in Council has been admitted on the

Given under my hand and the seal of the Court, this  
day of 19

Register

No. 11.

**NOTICE TO SHOW CAUSE WHY A REVIEW SHOULD  
NOT BE GRANTED (O. 47. r 4)**

(Title)

To

TAKE notice that                      has applied to this Court for a  
review of its decree passed on the                      day of  
                    in the above case. The                      day of  
                    is fixed for you to show cause why the Court should  
not grant a review of its decree in this case.

Given under my hand and the seal of the Court, this  
day of                      19                     

*Judge.*

# APPENDIX H.

## MISCELLANEOUS

### No. 1

#### AGREEMENT OF PARTIES AS TO ISSUES TO BE TRIED

(O 14, r 6)

(Title.)

Whereas we the parties in the above suit, are agreed as to the question of fact [or of law] to be decided between us and the point at issue between us is whether a claim founded on bond dated the \_\_\_\_\_ day of \_\_\_\_\_ and filed as Exhibit \_\_\_\_\_ in the said suit, is or is not beyond the statute of limitation (or state the point at issue whatever it may be) We therefore severally bind ourselves that, upon the finding of the Court in the negative [or affirmative] of such issue we will pay to the said \_\_\_\_\_ the sum of Rupees \_\_\_\_\_ (or such sum as the Court shall hold to be due thereon) and I, the said \_\_\_\_\_ will accept the said sum of Rupees \_\_\_\_\_ (or such sum as the Court shall hold to be due) in full satisfaction of my claim on the bond aforesaid (or, that upon such finding I the said \_\_\_\_\_ will do or abstain from doing, etc., etc.)

Witnesses

1.

2.

Dated the \_\_\_\_\_

day of \_\_\_\_\_

Plaintiff.

Defendant.

### No. 2.

#### NOTICE OF APPLICATION FOR THE TRANSFER OF A SUIT TO ANOTHER COURT FOR TRIAL. (SECTION 24)

(Title.)

In the Court of the District Judge of \_\_\_\_\_  
To \_\_\_\_\_

of 19 \_\_\_\_

WHEREAS an application dated the \_\_\_\_\_ day of \_\_\_\_\_  
 was made to this Court by \_\_\_\_\_ the \_\_\_\_\_  
 \_\_\_\_\_ in Suit No. \_\_\_\_\_ of 19 \_\_\_\_\_ of  
 \_\_\_\_\_ ending in the Court of the \_\_\_\_\_ at \_\_\_\_\_  
 \_\_\_\_\_ in which \_\_\_\_\_ is plaintiff and  
 \_\_\_\_\_ is defendant, for the transfer  
 of the suit for trial to the Court of the \_\_\_\_\_ at \_\_\_\_\_  
 you are hereby informed that the \_\_\_\_\_ day of \_\_\_\_\_  
 19 \_\_\_\_\_ has been fixed for the hearing of the application  
 when you will be heard if you desire to offer any objection to  
 the order given under my hand and the seal of the Court, this \_\_\_\_\_ day  
 19 \_\_\_\_\_  
 \_\_\_\_\_ Judge.

---

No 3

**NOTICE OF PAYMENT INTO COURT (O 24. r 2**

*(Title.)*

Take notice that the defendant has paid into Court Rs \_\_\_\_\_  
 and says that that sum is sufficient to satisfy the  
 plaintiff's claim in full

X V. Pleader for the defendant

To Z, Pleader for the plaintiff

---

No 4

**NOTICES TO SHOW CAUSE GENERAL FORM.)**

*(Title )*

WHEREAS above-named \_\_\_\_\_  
 made application to this Court that

You are hereby warned to appear in this  
 Court in person or by a pleader duly instructed on the

day of  
, at o'clock in the forenoon, to show cause against  
application, failing wherein, the said application will be heard  
and determined *ex parte*

Given under my hand and the seal of the Court, this 19  
day of

Judge

( 129 )

No. 5.

LIST OF DOCUMENTS PRODUCED BY PLAINTIFF  
DEFENDANT . O. 13. r. 1 )  
(Title.)

| 1. | Description of document. | Date, if any, which<br>the document,<br>bears. | Signature of party or<br>pleader. |
|----|--------------------------|------------------------------------------------|-----------------------------------|
|    | 2                        | 3                                              | 4                                 |
|    |                          |                                                |                                   |

No. 6

NOTICES TO PARTIES OF THE DAY FIXED FOR EXAMINATION  
OF A WITNESS ABOUT TO LEAVE THE JURISDICTION.  
(O. 18 r. 16.)

(Title.)

plaintiff (or defendant)

WHEREAS in the above suit application has been made to the Court by \_\_\_\_\_ that the examination of \_\_\_\_\_, a witness required by the said \_\_\_\_\_ in the

said suit, may be taken immediately; and it has been shown to the Court's satisfaction that the said witness is about to leave the Court's jurisdiction (or any other good and sufficient cause to be stated).

Take notice that the examination of the said witness \_\_\_\_\_ will be taken by the Court \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

Dated the \_\_\_\_\_ day \_\_\_\_\_ of \_\_\_\_\_ 19 \_\_\_\_\_

Judge.

No. 7.

**COMMISSION TO EXAMINE ABSENT WITNESS** (O. 26, IT 4 18)  
(Tale.)

To \_\_\_\_\_

WHEREAS the evidence of \_\_\_\_\_ is required by the \_\_\_\_\_ in the above suit, and whereas \_\_\_\_\_, you are requested to take the evidence on interrogatories (or and now) of such witness \_\_\_\_\_ and you are hereby appointed Commissioner for that purpose. The evidence will be taken in the presence of the parties or their agents if in attendance, who will be at liberty to question the witness on the points specified; and you are further requested to make return of such evidence as soon as it may be taken.

Process to compel the attendance of the witness will be issued by any Court having jurisdiction on your application.

A sum of Rs. \_\_\_\_\_, being your fee in the above, is herewith forwarded.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day \_\_\_\_\_ 19 \_\_\_\_\_

Judge.

No. 8.

## LETTER OF REQUEST. (O. 26. r. II)

(Title.)

(Heading :—To the President and Judges of, etc., etc., or  
as the case may be.)

WHEREAS a suit is now pending in the  
which A. B is plaintiff and C. D is defendant, and in the  
said suit the plaintiff claims

(abstract of claim) ;

And whereas it has been represented to the said Court that it  
necessary for the purposes of justice and for the due determina-  
tion of the matters in dispute between the parties, that the follow-  
ing persons should be examined as witnesses upon oath touching  
such matters, that is to say

E. F., of

G. H., of

I. J., of

and

And it appearing that such witnesses are resident within the  
jurisdiction of your honourable Court,

Now I, \_\_\_\_\_ as the \_\_\_\_\_ of the said Court have the honour  
to request, and do hereby request, that for the reasons aforesaid  
and for the assistance of the said Court, you as the President and  
Judges of the said \_\_\_\_\_, or some one or more of you, will be  
pleased to summon the said witness (and such other witnesses as  
the agents of the said plaintiff and defendant shall humbly  
request you in writing so to summon) to attend at such time and  
place as you shall appoint before some one or more of you or such  
other person as according to the procedure of your Court is  
competent to take the examination of witnesses, and that you will  
use such witnesses to be examined upon the interrogatories  
which accompany this letter of request (or *visa voce*) touching the  
said matters in question in the presence of the agents of the  
plaintiff and defendant, or such of them as shall, on due notice  
given, attend such examination.



And I further have the honour to request that you will be pleased to cause the answer of the said witnesses to be reduced into writing and all books, letters, papers and documents produced upon such examination to be duly marked for identification and that you will be furnished with such request in writing, if any, for the examination of witnesses to the said Court.

(Note—If the Request is directed to a Foreign Court the words "through His Majesty's Secretary of State for Foreign Affairs for transmission" should be inserted after the words "other witnesses" in the penultimate line of this form)

No 9

**COMMISSION FOR A LOCAL INVESTIGATION, OR TO EXAMINE  
ACCOUNTS (O. 26 rr. 9, 11)**

(Title.)

To

WHEREAS it is deemed requisite, for the purposes of this Act, that a commission for should be issued, for  
are hereby appointed Commissioner for the purpose of

Process to compel the attendance before you of any witnesses or for the production of any documents, whom or which you may desire to examine or inspect, will be issued by any Court having jurisdiction on your application.

A sum of Rs. , being your fee in the above  
herewith forwarded

Given under my hand and the seal of the Court this day of  
19 Judge

No 10.

**COMMISSION TO MAKE A PARTITION (O 26, r. 13.)**

*(Title)*

To

WHEREAS it is deemed requisite for the purposes of this suit that a commission should be issued to make the partition or

allot such shares to the several parties. You are hereby authorised to award sums to be paid to any party by any other party for the purpose of equalizing the value of the shares.

A sum of Rs. , being your fee in the above,  
is herewith forwarded

Given under my hand and the seal of the Court, this  
day of 19 .

*Judge.*

No 11

**NOTICE TO MINOR DEFENDANT AND GUARDIAN.**

(O 32, r. 3)

*(Title)*

To

*Minor Defendant*

*Natural Guardian*

WHEREAS an application has been presented on the part of the plaintiff in the above suit for the appointment of a guardian for the suit to the minor defendant, you, the said minor, and

you (1)

quired to take notice that unless within

are hereby re-  
days from the

service upon you of this notice, an application is made to the Court for the appointment of you or of some friend of you, the minor, to act as guardian for the suit, the Court will proceed to appoint some other person to act as a guardian to the minor for the purposes of the said suit.

Given under my hand and the seal of the Court, this  
day of 19 .

Judge.

---

No. 12

**NOTICE TO OPPOSITE PARTY OF DAY FIXED FOR HEARING  
EVIDENCE OF PAUPERISM. (O. 33, r. 6)**

(Title)

To

WHEREAS

has  
applied to this Court for permission to institute a suit against  
in forma pauperis under Order XXVIII  
of the Code of Civil Procedure, 1908; and whereas the Court  
sees no reason to reject the application, and whereas the  
day of 19 has been  
the applicant may adhere  
hearing any evidence which

Notice is hereby given to you under rule 6 of Order XXVIII  
that in case you may wish to offer any evidence to disprove the  
pauperism of the applicant, you may do so on appearing in the  
Court on the said day of 19 .

Given under my hand and the seal of the Court, this  
day of 19 .

---

(1) Here insert the name of guardian

No. 13.

## NOTICE TO SURETY OF HIS LIABILITY UNDER A DECREE.

(Section 145.)

(Title.)

To

WHEREAS you did on become  
 liable as surety for the performance of any decree which might  
 be passed against the said defendant in the above  
 suit ; and whereas a decree was passed on the  
 day of 19 against the said defendant for the  
 payment of , and whereas application has been  
 made for execution of the said decree against you :

Take notice that you are hereby required on or before the  
 day of 19 to show cause why  
 the said decree should not be executed against you, and if no

Given under my hand and the seal of the Court, this day  
 of 19 .

*Judge.*





No 15  
REGISTER OF APPEALS. (O. 41, r 9)

COURT (OR HIGH COURT) AT  
REGISTER OF APPEALS FROM DECREES IN THE YEAR 19 .

| REGISTER OF APPEALS FROM DECREES IN THE YEAR 19 . |  |               |  |           |  |  |              |  |  |                      |  |  |      |             |  |              |  |  |                    |  |  |               |  |                       |  |              |  |                 |  |                            |  |            |  |             |  |       |  |                                |  |                  |  |
|---------------------------------------------------|--|---------------|--|-----------|--|--|--------------|--|--|----------------------|--|--|------|-------------|--|--------------|--|--|--------------------|--|--|---------------|--|-----------------------|--|--------------|--|-----------------|--|----------------------------|--|------------|--|-------------|--|-------|--|--------------------------------|--|------------------|--|
| Date of memorandum                                |  | No. of Appeal |  | APPELLANT |  |  | RESPONDENT   |  |  | DECREE APPEALED FROM |  |  |      | APPEARANCE. |  | JUDGMENT.    |  |  |                    |  |  |               |  |                       |  |              |  |                 |  |                            |  |            |  |             |  |       |  |                                |  |                  |  |
|                                                   |  |               |  | Name.     |  |  | Description. |  |  | Place of residence.  |  |  | Name |             |  | Description. |  |  | Place of residence |  |  | Of what Court |  | No. of Original Suit. |  | Particulars. |  | Amount or Value |  | Day for parties to appear. |  | Appellant. |  | Respondent. |  | Date. |  | Confirmed, reversed or varied. |  | For what amount. |  |
|                                                   |  |               |  |           |  |  |              |  |  |                      |  |  |      |             |  |              |  |  |                    |  |  |               |  |                       |  |              |  |                 |  |                            |  |            |  |             |  |       |  |                                |  |                  |  |

# THE SECOND SCHEDULE.

## ARBITRATION.

### *Arbitration in Suits.*

1. (1) Where in any suit all the parties interested agree that any matter in difference between them shall be referred to arbitration, they may, at any time before judgement is pronounced, apply to the Court for an order of reference.

2. Every such application shall be in writing and shall state the matter sought to be referred.

Appointment of arbitrator

2. The arbitrator shall be appointed in such manner as may be agreed upon between the parties

3. (1) The Court shall, by order, refer to the arbitrator the matter in difference which he is required to determine, and shall fix such time as it thinks reasonable for the making of the award, and shall specify such time in the order.

Order of reference.

(2) Where a matter is referred to arbitration, the Court shall not, save in the manner and to the extent provided in this schedule, deal with such matter in the same suit.

Where reference is to two or more, to provide for difference of opinion

the arbitrators—

4. (1) Where the reference is to two or more arbitrators, shall be made in the order for a difference of opinion among

(a) by the appointment of an umpire ; or

(b) by declaring that, if the majority of the arbitrator agree, the decision of the majority shall prevail ; or



(c) by empowering the arbitrators to appoint an umpire or

(d) otherwise as may be agreed between the parties or, if they cannot agree, at the Court may determine.

(2) Where an umpire is appointed, the Court shall fix such time as it thinks reasonable for the making of his award in which he is required to act.

Power of Court to appoint arbitrator in certain cases,

3. (1) In any of the following cases namely:—

(a) where the parties have agreed to refer the dispute to arbitration with the arbitrator, or

(b) where an arbitrator or umpire—

(i) dies or

(ii) refuses or neglects to act or becomes incapable of acting, or

(iii) leaves British India in circumstances showing that he will probably not return at an early date, or

(c) where the arbitrators are empowered by the order of reference to appoint an umpire and fail to do so, any party may serve the other party or the arbitrators, as the case may be, with a written notice to appoint an arbitrator or umpire.

(2) If, within seven clear days after such notice has been served or such further time as the Court may in each case allow, no arbitrator or no umpire is appointed, the Court may, on an application made by any party, appoint an arbitrator or umpire.

arbitration, and in such case shall proceed with the suit.

Powers of arbitrator or umpire appointed under paragraph 4 or 5.

inserted in the order of reference.

6. Every arbitrator or umpire appointed under paragraph 4 or paragraph 5 shall have the like powers as if his name had been

7. (1) The Court shall issue the same processes to the parties and witness whom the arbitrator or umpire desires to examine, as summoning witnesses and default. the Court may issue in suits tried before it.

(2) Persons not attending in accordance with such process, or making any other default, or refusing to give their evidence, or guilty of any contempt to the arbitrator or umpire during the investigation of the matters referred, shall be subject to the like disadvantages, penalties and punishments, by order of the Court on the representation of the arbitrator or umpire, as they would incur for the like offences in suits tried before the Court.

8. Where the arbitrators or the umpire cannot complete the award within the period specified in the order, the Court may, if it thinks fit, either allow further time, and from time to time, either before or after the expiration of the period fixed for the making of the award, enlarge such period, or may make an order superseding the arbitration, and in such case shall proceed with the suit.

Where umpire may arbitrate in lieu of arbitrators

9 Where an umpire has been appointed, he may enter on the reference in the place of the arbitrators,—

- (a) if they have allowed the appointed time to expire without making an award, or
- (b) if they have delivered to the Court or to the umpire a notice in writing stating that they cannot agree

10 Where an award in a suit has been made, the persons who made it shall sign it and cause it to be filed in Court, together with any depositions and documents which have been taken and proved before them, and notice of the filing shall be given to the parties.

Award to be signed and filed

11. Upon any reference by an order of the Court, the arbitrator or umpire may, with the

Statement of special case by arbitrators or umpire.

leave of the Court, state the award as to the whole or a part thereof in the form of a

special case for the opinion of the Court, and the Court shall deliver its opinion thereon and shall order such opinion to be added to and to form part of the award.

Power to modify or correct award

12. The Court may, by order, modify or correct an award,—

(a) where it appears that a part of the award is upon a matter not referred to arbitration and such part may be separated from the other part and does not affect the decision on the matter referred ; or

(b) where the award is imperfect in form, or contains an obvious error which can be amended without affecting such decision ; or

(c) where the award contains a clerical mistake or an error arising from an accidental slip or omission.

13. The Court may also make such order as it thinks fit respecting the costs of the arbitration where any question arises

Order as to costs of arbitration

respecting such costs and the award contains no sufficient provision concerning them.

Where award or matter referred to arbitration may be remitted.

14. The Court may remit the award or any matter referred to arbitration to the reconsideration of the same arbitrator or umpire, upon such terms as it thinks fit,—

Where award or matter referred to arbitration may be remitted.

15. The Court may remit the award or any matter referred to arbitration to the reconsideration of the same arbitrator or umpire, upon such terms as it thinks fit,—

(a) where the award has left undermined any of the matters referred to arbitration, or where it determines any matter not referred to arbitration, unless such matter can be separated without affecting the determination of the matters referred ;

(b) where the award is so indefinite as to be incapable of execution,

(c) where an objection to the legality of the award is apparent upon the face of it,

15. (1) An award remitted under paragraph 14 becomes void on failure of the arbitrator or umpire to re-consider it. But no award shall be set aside except on one of the following grounds, namely:—

(a) corruption or misconduct of the arbitrator or umpire;

(b) either party having been guilty of fraudulent concealment of any matter which he ought to have disclosed or of wilfully misleading or deceiving the arbitrator or umpire ;

(c) the award having been made after the issue of an order by the Court superseding the arbitration and proceeding with the suit or after the expiration of the period allowed by the Court, or being otherwise invalid.

(2) Where an award becomes void or is set aside under clause 15, the Court shall make an order superseding the arbitration and in such case shall proceed with the suit.

16. (1) Where the Court sees no cause to remit the award or any of the matters referred to arbitration for re-consideration in manner aforesaid, and no application has been made to set aside the award, or the Court is refused such application, the Court shall, after the time for making such application, has expired, proceed to pronounce judgement according to the award,

(2) Upon the judgement so pronounced a decree shall follow and no appeal shall lie from such decree except in so far as the decree is in excess of, or not in accordance with, the award

*Order of reference on agreements to refer.*

17. (1) Where any persons agree in writing that any difference between them shall be referred to arbitration, the parties to the agreement, or any of them, may apply to any Court having jurisdiction in the matter

to which the agreement relates that the agreement be filed in Court

(2) The application shall be in writing and shall be numbered and registered as a suit between one or more of the parties interested or claiming to be interested as plaintiff or plaintiffs, and others or other of them as defendants or defendant, if the application has been presented by all the parties, or, if otherwise, between the applicant as plaintiff and the other parties as defendants.

(3) On such application being made, the Court shall direct notice thereof to be given to all the parties to the agreement other than the applicants, requiring such parties to show cause within the time specified in the notice, why the agreement should not be filed.

(4) Where no sufficient cause is shown, the Court shall order the agreement to be filed and shall make an order of reference to the arbitrator appointed in accordance with the provisions of the agreement or if there is no such provision and the parties cannot agree, the Court may appoint an arbitrator.

18. Where any party to any agreement to refer to arbitration or any person claiming under him, institutes any suit against any other party to the agreement or any person claiming under him, in respect of any matter agreed to be referred, any party to such suit may, at the earliest possible opportunity and in all cases where issues are settled, stay the suit.

or any person claiming under him, in respect of any matter agreed to be referred, any party to such suit may, at the earliest possible opportunity and in all cases where issues are settled, stay the suit. reason why in the 19th

19. If the applicant is not ready to refer to arbitration, and that the applicant was, at the time when the suit was instituted and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the suit.

Provisions of the Act relating to all proceedings under the order of reference made by the Court under that paragraph, as to the award and to the decree following thereon.

*Arbitration without the intervention of a Court.*

20. (1) Where any matter has been referred to arbitration

Filing award in matter referred to arbitration without intervention of Court

without the intervention of a Court, and an award has been made thereon, any person interested in the award may apply to

any Court having jurisdiction over the subject-matter of the award that the award be filed in Court.

(2) The application shall be in writing and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants.

(u) to the arbit  
show cause  
filed.

21. (1) Where the Court is satisfied that the matter has been

Filing and enforcement of such award

referred to arbitration and that an award has been made thereon.

uch as is  
is prov-  
proceed

(2) Upon the judgment so pronounced a decree shall follow, and no appeal shall be from such decree except in so far as the decree is in excess of or not in accordance with the award.

92. The last thirty-seven words of section 21 of the Specific Relief Act, 1877, shall not apply to any agreement to refer to arbitration, or to any award, to which the provisions of this schedule apply.

93.     THE     A     R     I     S     E

pective purposes therein mentioned.

## APPENDIX.

## No. 1

## APPLICATION FOR AN ORDER OF REFERENCE.

(Title of suit )

- 1 This suit is instituted for (state nature of claim)
2. The matter in difference between the parties is (state nature of difference.)
- 3 The applicants being all the parties interested have agreed that the matter in difference between them shall be referred to arbitration

4 The applicants therefore apply for an order of reference

A. B  
C. D

Dated the      day of      1

NOTE -- If the parties are agreed as to the arbitrators it should be so stated.

## No. 2.

## ORDER OF REFERENCE

(Title of suit )

Upon reading the application presented on the      day of  
19      it is ordered that the following matter in difference arising in this suit namely -----

be referred for determination to X and Y, or in case of their not agreeing then to the determination of Z, who is hereby appointed to be umpire; and such arbitrators are to make their award in writing on or before the      day of      19      . and in case of the said arbitrators not agreeing in an award the said umpire is to make his award in writing within      months after the time during which it is within the power of the arbitrators to make an award shall have ceased.

Liberty to apply.





Dated the                      day of                      19                      .

No 5

**AWARD***( Title of suit )*In the matter of an arbitration between A. B. of  
and C. D. ofWhereas in pursuance of an order of reference made by the  
Court of                      and dated the                      day of  
19                      the following matter in difference  
between A. B. and C. D., namely, \_\_\_\_\_  
\_\_\_\_\_

has been referred to us for determination.

Now we having duly considered the matter referred to us do  
hereby make our award as follows. —

We award—

(1) that \_\_\_\_\_

(2) that \_\_\_\_\_

Dated the                      day of                      19                      .

# THE THIRD SCHEDULE.

## EXECUTION OF DECREES BY COLLECTORS.

1. Where the execution of a decree has been transferred to the Collector under section 68, he may

Powers of Collectors

- (a) proceed as the Court would proceed when the sale of immovable property is postponed in order to enable the judgment-debtor to raise the amount of the decree, or
- (b) raise the amount of the decree by letting in perpetuity or for a term, on payment of a premium, or by mortgaging, the whole or any part of the property ordered to be sold, or
- (c) sell the property ordered to be sold or so much thereof as may be necessary.

2. Where the execution of a decree, not being a decree ordering the sale of immovable property in pursuance of a contract specifically affecting the same,

Procedure of Collector in special cases.

1. 1. 1. 1. 1.

2. that all the liabilities without a sale of the may proceed as here-

3 (1) 1

Notice to be given and to per property

upon -

2, the notice, 21 days publication for compliance and calling

for every person in

against the

sale of his

decree-holder desires to have so executed, and every holder of a decree for the payment of money in execution of which proceedings for the sale of such property are pending, to produce before the Collector a copy of the decree and a certificate from the Court which passed or is executing the same, declaring the amount recoverable thereunder.

4. Every person having any claim on the said property to submit to the Collector a statement of such claim and to produce the documents (if any) by which it is evidenced.

(2) Such notice shall be published by being affixed on a conspicuous part of the court-house of the Court which made the original order for sale and in such other places (if any) as the Collector thinks fit, and where the address of any such decree-holder or claimant is known a copy of the notice shall be sent to him by post or otherwise.

1. (1) Upon the expiration of the said period, the Collector shall appoint a day for hearing any representations which the judgment-debtor and the decree-holders or claimants (if any) may desire to make, and for holding

Amount of decrees for payment of money to be ascertained and immoveable property available for their satisfaction.

such inquiry as he may deem necessary for informing himself as to the nature and extent of such immoveable property, and may from time to time, adjourn such hearing and inquiry.

(2) Where there is no dispute as to the fact or extent of the liability of the judgment-debtor to any of the decrees or claims of which the Collector is informed, or as to the relative priorities of such decrees or claims or as to the liability of any such property for the satisfaction of such decrees or claims, the Collector shall draw up a statement, specifying the amount to be recovered for the discharge of such decrees, the order in which such decrees or claims are to be satisfied and the immoveable property available for the purpose.

(2) Where any such dispute arises, the Collector shall refer the same, with a statement thereof and his own opinion thereon, to the Court which made the original order for sale, and shall, pending the reference, stay proceedings relating to the subject thereof. The Court shall dispose of the dispute if the matter thereof is within its jurisdiction, or transmit the case to a competent Court for disposal, and the final decision shall be communicated to the Collector, who shall then draw up a statement as above provided in accordance with such decision.

### 5. The Collector

Where District Court makes  
orders and hold inquiry

in circumstances of the judgment, the party so far as they are known to the Collector or appear in the records of his office, and forward such statement to the District Court; and such Court shall thereupon issue the notices, hold the inquiry and draw up the statement required by paragraphs 3 and 4 and transmit such statement to the Collector.

### 6. The decision by the Court of any dispute arising under

Effect of decision of Court as to  
dispute

paragraph 4 or paragraph 5 shall,  
as between the parties thereto,  
have the force of and be appeal-

able as a decree

### 7. (1) Where the amount to be recovered and the property

Scheme for liquidation of decrees  
for payment of money

available have been determined  
as provided in paragraph 4 or

(a)

proceed to sell such property, or,

(b) if it appears that the amount with interest (if any) in accordance with the decree and when not deemed payable, may amount an order for sale)-

- (i) by letting in perpetuity or for a term, on payment of a premium, the whole or any part of the said property ; or
- (ii) by mortgaging the whole or any part of such property ; or
- (iii) by selling part of such property ; or
- (iv) by letting on farm, or managing by himself or another, the whole or any part of such property for any term not exceeding twenty years from the date of the order of sale ; or
- (v) partly by one of such modes, and partly by another or others of such modes.

(2) For the purpose of managing the whole or any part of such property, the Collector may exercise all the powers of its owner.

(3) For the purpose of improving the saleable value of the property available or any part thereof, or rendering it more suitable for letting or managing, or for preserving the property from sale in satisfaction of an incumbrance, the Collector may discharge the claim of any incumbrancer which has become payable or compound the claim of any incumbrancer whether it has become payable or not, and, for the purpose of providing funds to effect such discharge or composition, may mortgage, let or sell any portion of the property which he deems sufficient. If any dispute arises as to the amount due on any incumbrance with which the Collector proposes to deal under this clause, he may institute a suit in the proper Court either in the name of the Collector or of any person named by him.

(4) In proceeding under this paragraph the Collector shall be subject to such rules consistent with this Act as may, from time to time, be made in this behalf by the Local Government.

8. Where, on the expiration of the letting or management under paragraph 7, the amount to be recovered has not been realized, the Collector shall notify the recovery of balance (if any) after the expiration of the letting or management.

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provisions of this schedule, and shall hold the balance at the disposal of the Court.

(2) Such charges shall include all debts and liabilities for

... sentence shall be applied by the Court—

(a) . . .

such amount in the case of each member as the Court thinks fit; and,

(b) where the Collector has proceeded under paragraph 1,  
in accordance with the provisions of the said section

(c) where the Collector has proceeded under paragraph

(i) in keeping down the interest on incumbrances on the property ;

(ii) where the judgment-debtor has no other sufficient means of subsistence, in providing for his sub-

sistence to such amount as the Court thinks fit and

- (iii) in discharging rateably the claims of the original decree-holder and any other decree-holders who have complied with the said notice, and whose claims were included in the amount ordered to be recovered

(f) No other holder of a decree for the payment of money shall be entitled to be paid out of such property or balance until the decree-holders who have obtained such order have been satisfied, and the residue (if any) shall be paid to the judgment-debtor or such other person as the Court directs

- 10 Where the Collector sells any property under this section he shall put it up to public auction in one or more lots as he thinks fit and may

- (a) fix a reasonable reserved price for each lot;  
(b) adjourn the sale for a reasonable time whenever for reasons to be recorded, he deems the adjournment necessary for the purpose of obtaining a fair price for the property;  
(c) buy in the property offered for sale, and re-sell the same by public auction or private contract as he thinks fit

- 11 So long as the Collector can exercise or perform in respect of the judgment-debtor's immovable property, or any part thereof, any of the powers or duties conferred or imposed on him by paragraphs 1 to 10

Restrictions as to alienation by judgment-debtor or his representative, and prosecution of remedies by decree-holders

the judgment-debtor or his representative in interest shall be incompetent to mortgage, charge, lease or alienate such property or part except with the written permission of the Collector and shall any Civil Court issue any process against such property or part in execution of a decree for the payment of money.

(2) During the same period no Civil Court shall issue any process of execution either against the judgment-debtor or his property in respect of any decree for the satisfaction whereof provision has been made by the Collector under paragraph 7.

(3) The same period shall be excluded in calculating the period by which

12 Where the property of which the sale has been ordered is situate in more districts than one, the powers and duties conferred and imposed on the Collector by paragraphs 1 to 10 shall be exercised and performed by such one of the Collectors of the said districts as the Local Government may by general rule or special order direct.

13 In exercising the powers conferred on him by paragraphs 1 to 10 the Collector shall have the powers of a Civil Court to compel the attendance of parties and witnesses and the production of documents



## THE FOURTH SCHEDULE.

(See section 155.)

## ENACTMENTS AMENDED.

| 1    | 2   | 3                        | 4                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|------|-----|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Year | No  | Short title              | Amendment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 1870 | VII | The Court Fees Act, 1870 | <p>In article I of Schedule I, after the word "plaint" the words "written statement pleading a set-off or counter-claim" shall be inserted after the word "set" the words "or of cross-objection" shall be inserted.</p> <p>From article II of Schedule II the words "from an order rejecting a plaint or" shall be omitted.</p> <p>For the entry in the first column of Schedule II relating to article 19 the following entry shall be substituted namely—</p> <p>"Agreement in writing stating a question for the opinion of the Court under the Code of Civil Procedure, 1854"</p> |

## ENACTMENTS REPEALED.

| 1                                              | 2    | 3                                                         | 4                                                                                                                                                                                                                    |
|------------------------------------------------|------|-----------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Year                                           | No   | Subject or short title                                    | Extent of repeal.                                                                                                                                                                                                    |
| <i>Acts of the Governor-General in Council</i> |      |                                                           |                                                                                                                                                                                                                      |
| 1870                                           | VIII | The Court-fee Act 1870                                    | Section 16, and article 15 of Schedule II                                                                                                                                                                            |
| 1882                                           | IV   | The transfer of property Act 1882                         | Section 87 to 90 inclusive, 92 to 94 (inclusive, 96, 97, 99 and in section 100 the words "and all the provisions hereinafore contained as to a mortgagee instituting a suit for the sale of the mortgaged property." |
| "                                              | XIV  | The Code of Civil Procedure                               | The whole Act.                                                                                                                                                                                                       |
| "                                              | XV   | The Presidency Small Cause Courts Act, 1882               | The first paragraph of section 3                                                                                                                                                                                     |
| 1888                                           | VI   | The Debtors Act, 1888                                     | section 2 to 8,                                                                                                                                                                                                      |
| "                                              | VII  | The Civil Procedure Code Amendment Act, 1888              | So much as is unrepealed except section 1                                                                                                                                                                            |
| "                                              | X    | The Presidency Small Cause Courts Law Amendment Act, 1888 | section 65 and section 10, sub-sections (1), (2), and (3).                                                                                                                                                           |
| 1890                                           | VIII | The Guardian and Wards Act 1890                           | So much as is unrepealed                                                                                                                                                                                             |
| "                                              |      |                                                           | Section 73                                                                                                                                                                                                           |

| 1                                              | 2    | 3                                                                      | 4                                                                                                |
|------------------------------------------------|------|------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| Year.                                          | No.  | Subject or short title                                                 | Extent of repeal                                                                                 |
| <i>Acts of the Governor General in Council</i> |      |                                                                        |                                                                                                  |
| 1891                                           | XII  | The Repealing and Amending Act 1891                                    |                                                                                                  |
| 1892                                           | VI   | The Indian Limitation Act and Civil Procedure Code Amendment, Act 1892 | So much as relates to Act VII of 1882 and Act VII of 1888                                        |
| 1894                                           | V    | The Civil Procedure Code Amendment Act, 1894.                          | In the title and preamble the words "and the Code of Civil Procedure" and section 2, 3, 4, and 5 |
| 1893                                           | VII  | The Punjab Laws Act Amendment 1893                                     | The whole Act                                                                                    |
| "                                              | XIII | The Civil Procedure Act Amendment Act, 1893                            | Section 1 and 2                                                                                  |
| 1900                                           | VI   | The Lower Burma Courts Act, 1900                                       | The whole Act                                                                                    |
|                                                |      |                                                                        | So much of the schedules as relate to Act XIV of 1882                                            |



Sections of the New Act with the corresponding sections of the old Act.

| New Act. | Old Act.   | New Act | Old Act  | New Act | Old Act.          |
|----------|------------|---------|----------|---------|-------------------|
| Sec 1    | Sec. 1     | 62      | 271      | 130     | 652, para 2       |
| 2        | 2          | 61      | 285      | 131     | 652, para 4       |
| 3        | 211, Exps  | 64      | 276      | 132     | 610               |
| 4        | 2          | 65      | New of   | 133     | 611               |
| 5        | 41         |         | New      | 134     | New               |
| 6        | 6 (last)   | 66      | 117      | 135     | 612               |
| 7        | para       | 67      | 127      | 136     | 618               |
| 8        | 5          | 68      | 120      | 137     | 615               |
| 9        | 8          | 69      | New      |         |                   |
| 10       | 11         | 70      | 120      | 138     | 185A              |
| 11       | 12         | 71      | 120      | 139     | 197               |
| 12       | 13         | 72      | 326      | 140     | 615A              |
| 13       | New        | 73      | 295      | 141     | 617               |
| 14       | 14         | 74      | 330      | 142     | 91                |
| 15       | 13 (Exp 6) | 75      | New      | 143     | 95                |
| 16       | 15         | 76      | 186      | 144     | 583               |
| 17       | 16         | 77      | New      | 145     | 251               |
| 18       | 19         | 78      | 331      | 146-151 | New               |
| 19       | 16A        | 79      | 116      | 152     | cf. 206, para. 1, |
| 20       | 18         | 80      | 121      | 153     | New               |
| 21       | 17         | 81      | 125, 124 | 154     | 3, para 1,        |
| 22       | 16A (2)    | 82      | 129      | 155     | New               |
| 23       | 22         | 83      | 480      | 156     | 3, sub. 1,        |
| 24       | 25, 21     | 84      | 431      | 157     | 3, sub. 2,        |
| 25       | 25         | 85      | 412      | 158     | 3, para 2,        |
| 26       | New        | 86      | 433      | 159     | 20                |
| 27       | 14         | 87      | 435      | 160     | New               |
| 28       | 15         | 88      | 436      | 161     | New               |
| 29       | 16         | 89      | 437      | 162     | New               |
| 30       | 17         | 90      | 438      | 163     | New               |
| 31       | 18         | 91      | 439      | 164     | New               |
| 32       | 19         | 92      | 440      | 165     | New               |
| 33       | 20         | 93      | 441      | 166     | New               |
| 34       | 21         | 94      | 442      | 167     | New               |
| 35       | 22         | 95      | 443      | 168     | New               |
| 36       | 23         | 96      | 444      | 169     | New               |
| 37       | 24         | 97      | 445      | 170     | New               |
| 38       | 25         | 98      | 446      | 171     | New               |
| 39       | 26         | 99      | 447      | 172     | New               |
| 40       | 27         | 100     | 448      | 173     | New               |
| 41       | 28         | 101     | 449      | 174     | New               |
| 42       | 29         | 102     | 450      | 175     | New               |
| 43       | 30         | 103     | 451      | 176     | New               |
| 44       | 31         | 104     | 452      | 177     | New               |
| 45       | 32         | 105     | 453      | 178     | New               |
| 46       | 33         | 106     | 454      | 179     | New               |
| 47       | 34         | 107     | 455      | 180     | New               |
| 48       | 35         | 108     | 456      | 181     | New               |
| 49       | 36         | 109     | 457      | 182     | New               |
| 50       | 37         | 110     | 458      | 183     | New               |
| 51       | 38         | 111     | 459      | 184     | New               |
| 52       | 39         | 112     | 460      | 185     | New               |
| 53       | 40         | 113     | 461      | 186     | New               |
| 54       | 41         | 114     | 462      | 187     | New               |
| 55       | 42         | 115     | 463      | 188     | New               |
| 56       | 43         | 116     | 464      | 189     | New               |
| 57       | 44         | 117     | 465      | 190     | New               |
| 58       | 45         | 118     | 466      | 191     | New               |
| 59       | 46         | 119     | 467      | 192     | New               |
| 60       | 47         | 120     | 468      | 193     | New               |
| 61       | 48         | 121     | 469      | 194     | New               |
| 62       | 49         | 122     | 470      | 195     | New               |
| 63       | 50         | 123     | 471      | 196     | New               |
| 64       | 51         | 124     | 472      | 197     | New               |
| 65       | 52         | 125     | 473      | 198     | New               |
| 66       | 53         | 126     | 474      | 199     | New               |
| 67       | 54         | 127     | 475      | 200     | New               |
| 68       | 55         | 128     | 476      | 201     | New               |
| 69       | 56         | 129     | 477      | 202     | New               |
| 70       | 57         | 130     | 478      | 203     | New               |
| 71       | 58         | 131     | 479      | 204     | New               |
| 72       | 59         | 132     | 480      | 205     | New               |
| 73       | 60         | 133     | 481      | 206     | New               |
| 74       | 61         | 134     | 482      | 207     | New               |
| 75       | 62         | 135     | 483      | 208     | New               |
| 76       | 63         | 136     | 484      | 209     | New               |
| 77       | 64         | 137     | 485      | 210     | New               |
| 78       | 65         | 138     | 486      | 211     | New               |
| 79       | 66         | 139     | 487      | 212     | New               |
| 80       | 67         | 140     | 488      | 213     | New               |
| 81       | 68         | 141     | 489      | 214     | New               |
| 82       | 69         | 142     | 490      | 215     | New               |
| 83       | 70         | 143     | 491      | 216     | New               |
| 84       | 71         | 144     | 492      | 217     | New               |
| 85       | 72         | 145     | 493      | 218     | New               |
| 86       | 73         | 146     | 494      | 219     | New               |
| 87       | 74         | 147     | 495      | 220     | New               |
| 88       | 75         | 148     | 496      | 221     | New               |
| 89       | 76         | 149     | 497      | 222     | New               |
| 90       | 77         | 150     | 498      | 223     | New               |
| 91       | 78         | 151     | 499      | 224     | New               |
| 92       | 79         | 152     | 500      | 225     | New               |
| 93       | 80         | 153     | 501      | 226     | New               |
| 94       | 81         | 154     | 502      | 227     | New               |
| 95       | 82         | 155     | 503      | 228     | New               |
| 96       | 83         | 156     | 504      | 229     | New               |
| 97       | 84         | 157     | 505      | 230     | New               |
| 98       | 85         | 158     | 506      | 231     | New               |
| 99       | 86         | 159     | 507      | 232     | New               |
| 100      | 87         | 160     | 508      | 233     | New               |
| 101      | 88         | 161     | 509      | 234     | New               |
| 102      | 89         | 162     | 510      | 235     | New               |
| 103      | 90         | 163     | 511      | 236     | New               |
| 104      | 91         | 164     | 512      | 237     | New               |
| 105      | 92         | 165     | 513      | 238     | New               |
| 106      | 93         | 166     | 514      | 239     | New               |
| 107      | 94         | 167     | 515      | 240     | New               |
| 108      | 95         | 168     | 516      | 241     | New               |
| 109      | 96         | 169     | 517      | 242     | New               |
| 110      | 97         | 170     | 518      | 243     | New               |
| 111      | 98         | 171     | 519      | 244     | New               |
| 112      | 99         | 172     | 520      | 245     | New               |
| 113      | 100        | 173     | 521      | 246     | New               |
| 114      | 101        | 174     | 522      | 247     | New               |
| 115      | 102        | 175     | 523      | 248     | New               |
| 116      | 103        | 176     | 524      | 249     | New               |
| 117      | 104        | 177     | 525      | 250     | New               |
| 118      | 105        | 178     | 526      | 251     | New               |
| 119      | 106        | 179     | 527      | 252     | New               |
| 120      | 107        | 180     | 528      | 253     | New               |
| 121      | 108        | 181     | 529      | 254     | New               |
| 122      | 109        | 182     | 530      | 255     | New               |
| 123      | 110        | 183     | 531      | 256     | New               |
| 124      | 111        | 184     | 532      | 257     | New               |
| 125      | 112        | 185     | 533      | 258     | New               |
| 126      | 113        | 186     | 534      | 259     | New               |
| 127      | 114        | 187     | 535      | 260     | New               |
| 128      | 115        | 188     | 536      | 261     | New               |
| 129      | 116        | 189     | 537      | 262     | New               |
| 130      | 117        | 190     | 538      | 263     | New               |
| 131      | 118        | 191     | 539      | 264     | New               |
| 132      | 119        | 192     | 540      | 265     | New               |
| 133      | 120        | 193     | 541      | 266     | New               |
| 134      | 121        | 194     | 542      | 267     | New               |
| 135      | 122        | 195     | 543      | 268     | New               |
| 136      | 123        | 196     | 544      | 269     | New               |
| 137      | 124        | 197     | 545      | 270     | New               |
| 138      | 125        | 198     | 546      | 271     | New               |
| 139      | 126        | 199     | 547      | 272     | New               |
| 140      | 127        | 200     | 548      | 273     | New               |
| 141      | 128        | 201     | 549      | 274     | New               |
| 142      | 129        | 202     | 550      | 275     | New               |
| 143      | 130        | 203     | 551      | 276     | New               |
| 144      | 131        | 204     | 552      | 277     | New               |
| 145      | 132        | 205     | 553      | 278     | New               |
| 146      | 133        | 206     | 554      | 279     | New               |
| 147      | 134        | 207     | 555      | 280     | New               |
| 148      | 135        | 208     | 556      | 281     | New               |
| 149      | 136        | 209     | 557      | 282     | New               |
| 150      | 137        | 210     | 558      | 283     | New               |
| 151      | 138        | 211     | 559      | 284     | New               |
| 152      | 139        | 212     | 560      | 285     | New               |
| 153      | 140        | 213     | 561      | 286     | New               |
| 154      | 141        | 214     | 562      | 287     | New               |
| 155      | 142        | 215     | 563      | 288     | New               |
| 156      | 143        | 216     | 564      | 289     | New               |
| 157      | 144        | 217     | 565      | 290     | New               |
| 158      | 145        | 218     | 566      | 291     | New               |
| 159      | 146        | 219     | 567      | 292     | New               |
| 160      | 147        | 220     | 568      | 293     | New               |
| 161      | 148        | 221     | 569      | 294     | New               |
| 162      | 149        | 222     | 570      | 295     | New               |
| 163      | 150        | 223     | 571      | 296     | New               |
| 164      | 151        | 224     | 572      | 297     | New               |
| 165      | 152        | 225     | 573      | 298     | New               |
| 166      | 153        | 226     | 574      | 299     | New               |
| 167      | 154        | 227     | 575      | 300     | New               |
| 168      | 155        | 228     | 576      | 301     | New               |
| 169      | 156        | 229     | 577      | 302     | New               |
| 170      | 157        | 230     | 578      | 303     | New               |
| 171      | 158        | 231     | 579      | 304     | New               |
| 172      | 159        | 232     | 580      | 305     | New               |
| 173      | 160        | 233     | 581      | 306     | New               |
| 174      | 161        | 234     | 582      | 307     | New               |
| 175      | 162        | 235     | 583      | 308     | New               |
| 176      | 163        | 236     | 584      | 309     | New               |
| 177      | 164        | 237     | 585      | 310     | New               |
| 178      | 165        | 238     | 586      | 311     | New               |
| 179      | 166        | 239     | 587      | 312     | New               |
| 180      | 167        | 240     | 588      | 313     | New               |
| 181      | 168        | 241     | 589      | 314     | New               |
| 182      | 169        | 242     | 590      | 315     | New               |
| 183      | 170        | 243     | 591      | 316     | New               |
| 184      | 171        | 244     | 592      | 317     | New               |
| 185      | 172        | 245     | 593      | 318     | New               |
| 186      | 173        | 246     | 594      | 319     | New               |
| 187      | 174        | 247     | 595      | 320     | New               |
| 188      | 175        | 248     | 596      | 321     | New               |
| 189      | 176        | 249     | 597      | 322     | New               |
| 190      | 177        | 250     | 598      | 323     | New               |
| 191      | 178        | 251     | 599      | 324     | New               |
| 192      | 179        | 252     | 600      | 325     | New               |
| 193      | 180        | 253     | 601      | 326     | New               |
| 194      | 181        | 254     | 602      | 327     | New               |
| 195      | 182        | 255     | 603      | 328     | New               |
| 196      | 183        | 256     | 604      | 329     | New               |
| 197      | 184        | 257     | 605      | 330     | New               |
| 198      | 185        | 258     | 606      | 331     | New               |
| 199      | 186        | 259     | 607      | 332     | New               |
| 200      | 187        | 260     | 608      | 333     | New               |
| 201      | 188        | 261     | 609      | 334     | New               |
| 202      | 189        | 262     | 610      | 335     | New               |
| 203      | 190        | 263     | 611      | 336     | New               |
| 204      | 191        | 264     | 612      | 337     | New               |
| 205      | 192        | 265     | 613      | 338     | New               |
| 206      | 193        | 266     | 614      | 339     | New               |
| 207      | 194        | 267     | 615      | 340     | New               |
| 208      | 195        | 268     | 616      | 341     | New               |
| 209      | 196        | 269     | 617      | 342     | New               |
| 210      | 197        | 270     | 618      | 343     | New               |
| 211      | 198        | 271     | 619      | 344     | New               |
| 212      | 199        | 272     | 620      | 345     | New               |
| 213      | 200        | 273     | 621      | 346     | New               |
| 214      | 201        | 274     | 622      | 347     | New               |
| 215      | 202        | 275     | 623      | 348     | New               |
| 216      | 203        | 276     | 624      | 349     | New               |
| 217      | 204        | 277     | 625      | 350     | New               |
| 218      | 205        | 278     | 626      | 351     | New               |
| 219      | 206        | 279     | 627      | 352     | New               |
| 220      | 207        | 280     | 628      | 353     | New               |
| 221      | 208        | 281     | 629      | 354     | New               |
| 222      | 209        | 282     | 630      | 355     | New               |
| 223      | 210        | 283     | 631      | 356     | New               |
| 224      | 211        | 284     | 632      | 357     | New               |
| 225      | 212        | 285     | 633      | 358     | New               |
| 226      | 213        | 286     | 634      | 359     | New               |
| 227      | 214        | 287     | 635      | 360     | New               |
| 228      | 215        | 288     | 636      | 361     | New               |
| 229      | 216        | 289     | 637      | 362     | New               |
| 230      | 217        | 290     | 638      | 363     | New               |
| 231      | 218        | 291     | 639      | 364     | New               |
| 232      | 219        | 292     | 640      | 365     | New               |
| 233      | 220        | 293     | 641      | 366     | New               |
| 234      | 221        | 294     | 642      | 367     | New               |
| 235      | 222        | 295     | 643      | 368     | New               |
| 236      | 223        | 296     | 644      | 369     | New               |
| 237      | 224        | 297     | 645      | 370     | New               |
| 238      | 225        | 298     | 646      | 371     | New               |
| 239      | 226        | 299     | 647      | 372     | New               |
| 240      | 227        | 300     | 648      | 373     | New               |
| 241      | 228        | 301     | 649      | 374     | New               |
| 242      | 229        | 302     | 650      | 375     | New               |
| 243      | 230        | 303     | 651      | 376     | New               |



| New Act.        | Old Act.    | New Act.       | Old Act.      | New Act.  | Old Act.    |
|-----------------|-------------|----------------|---------------|-----------|-------------|
| O 5, r 11       | 74          | O 11, r 21     | C/s 126       | O 20, r 1 | 193         |
| 12              | 75          | r 20 & 23      | New           | 2         | 199         |
| 13              | 76          | O 12, r 1 to 9 | New           | 3         | 202         |
| 14              | 77          | O 13, r 1      | 133, 140      | 4         | 203         |
| 15              | 78          | 2              | 139           | 5         | 204         |
| 16              | 79          | 3              | 140           | 6         | 206, 221    |
| 17              | 80          | 4              | 141           | 7         | 205         |
| 18              | 81          | 5              | 141A          | 8         | New         |
| 19              | 82          | 6              | 142           | 9         | 207         |
| 20              | 82 (para 2) | 7              | 142A          | 10        | 208         |
|                 | 83 & 84     | 8              | 143           | 11        | 210         |
| 21              | 85          | 9              | 144           | 12        | 211, 212    |
| 22              | 86          | 10             | 137           | 13        | 213         |
| 23              | 85          | 11             | 145           | 14        | 214         |
| 24              | 87, 88      | O 14, r 1      | 146 (para. 6) | 15        | 215         |
| 25              | 89          | 2              | 147           | 16        | 215A        |
| 26              | 90          | 3              | 148           | 17        | New         |
| 27              | 423         | 4              | 149           | 18        | New         |
| 28              | 468         | 5              | 150           | 19        | 216         |
| 29              | 91, 92      | 6              | 151           | 20        | 217         |
| O 6, r. 1 to 13 | New         | O 15 r. 1      | 152           | 21        | 257         |
| 14              | 51          | 2              | 153           | 22        | 259         |
| 15              | 51          | 3              | 154           | 23        | New         |
| 16              | Cf. 53      | 4              | 155           | 24        | 223, para 5 |
| 17              | Cf. 53      | 5              | 156           | 25        | 224, para 6 |
| 18              | 54          | O 16, r 1      | 157           | 26        | 224         |
| O 7, r. 1       | 55          | 2              | 158           | 27        | 225         |
| 2               | 56 (para 7) | 3              | 159           | 28        | 226         |
| 3               | 57 (para 7) | 4              | 160           | 29        | 227         |
| 4               | 58          | 5              | 161           | 30        | 228         |
|                 |             | 6              | 162           |           | 229         |
|                 |             | 7              | 163           |           | 230         |
|                 |             | 8              | 164           |           | 231         |
|                 |             | 9              | 165           |           | 232         |
|                 |             | 10             | 166           |           | 233         |
|                 |             | 11             | 167           |           | 234         |
|                 |             | 12             | 168           |           | 235         |
|                 |             | 13             | 169           |           | 236         |
|                 |             | 14             | 170           |           | 237         |
|                 |             | 15             | 171           |           | 238         |
|                 |             | 16             | 172           |           | 239         |
|                 |             | 17             | 173           |           | 240         |
|                 |             | 18             | 174           |           | 241         |
|                 |             | 19             | 175           |           | 242         |
|                 |             | 20             | 176           |           | 243         |
|                 |             | 21             | 177           |           | 244         |
|                 |             | 22             | 178           |           | 245         |
|                 |             | 23             | 179           |           | 246         |
|                 |             | 24             | 180           |           | 247         |
|                 |             | 25             | 181           |           | 248         |
|                 |             | 26             | 182           |           | 249         |
|                 |             | 27             | 183           |           | 250         |
|                 |             | 28             | 184           |           | 251         |
|                 |             | 29             | 185           |           | 252         |
|                 |             | 30             | 186           |           | 253         |
|                 |             | 31             | 187           |           | 254         |
|                 |             | 32             | 188           |           | 255         |
|                 |             | 33             | 189           |           | 256         |
|                 |             | 34             | 190           |           | 257         |
|                 |             | 35             | 191           |           | 258         |
|                 |             | 36             | 192           |           | 259         |
|                 |             | 37             | 193           |           | 260         |
|                 |             | 38             | 194           |           | 261         |
|                 |             | 39             | 195           |           | 262         |
|                 |             | 40             | 196           |           | 263         |
|                 |             | 41             | 197           |           | 264         |
|                 |             | 42             | 198           |           | 265         |
|                 |             | 43             | 199           |           | 266         |
|                 |             | 44             | 200           |           | 267         |
|                 |             | 45             | 201           |           | 268         |
|                 |             | 46             | 202           |           | 269         |
|                 |             | 47             | 203           |           | 270         |
|                 |             | 48             | 204           |           | 271         |
|                 |             | 49             | 205           |           | 272         |
|                 |             | 50             | 206           |           | 273         |
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|                 |             | 53             | 209           |           | 276         |
|                 |             | 54             | 210           |           | 277         |
|                 |             | 55             | 211           |           | 278         |
|                 |             | 56             | 212           |           | 279         |
|                 |             | 57             | 213           |           | 280         |
|                 |             | 58             | 214           |           | 281         |
|                 |             | 59             | 215           |           | 282         |
|                 |             | 60             | 216           |           | 283         |
|                 |             | 61             | 217           |           | 284         |
|                 |             | 62             | 218           |           | 285         |
|                 |             | 63             | 219           |           | 286         |
|                 |             | 64             | 220           |           | 287         |
|                 |             | 65             | 221           |           | 288         |
|                 |             | 66             | 222           |           | 289         |
|                 |             | 67             | 223           |           | 290         |
|                 |             | 68             | 224           |           | 291         |
|                 |             | 69             | 225           |           | 292         |
|                 |             | 70             | 226           |           | 293         |
|                 |             | 71             | 227           |           | 294         |
|                 |             | 72             | 228           |           | 295         |
|                 |             | 73             | 229           |           | 296         |
|                 |             | 74             | 230           |           | 297         |
|                 |             | 75             | 231           |           | 298         |
|                 |             | 76             | 232           |           | 299         |
|                 |             | 77             | 233           |           | 300         |
|                 |             | 78             | 234           |           | 301         |
|                 |             | 79             | 235           |           | 302         |
|                 |             | 80             | 236           |           | 303         |
|                 |             | 81             | 237           |           | 304         |
|                 |             | 82             | 238           |           | 305         |
|                 |             | 83             | 239           |           | 306         |
|                 |             | 84             | 240           |           | 307         |
|                 |             | 85             | 241           |           | 308         |
|                 |             | 86             | 242           |           | 309         |
|                 |             | 87             | 243           |           | 310         |
|                 |             | 88             | 244           |           | 311         |
|                 |             | 89             | 245           |           | 312         |
|                 |             | 90             | 246           |           | 313         |
|                 |             | 91             | 247           |           | 314         |
|                 |             | 92             | 248           |           | 315         |
|                 |             | 93             | 249           |           | 316         |
|                 |             | 94             | 250           |           | 317         |
|                 |             | 95             | 251           |           | 318         |
|                 |             | 96             | 252           |           | 319         |
|                 |             | 97             | 253           |           | 320         |
|                 |             | 98             | 254           |           | 321         |
|                 |             | 99             | 255           |           | 322         |
|                 |             | 100            | 256           |           | 323         |
|                 |             | 101            | 257           |           | 324         |
|                 |             | 102            | 258           |           | 325         |
|                 |             | 103            | 259           |           | 326         |
|                 |             | 104            | 260           |           | 327         |
|                 |             | 105            | 261           |           | 328         |
|                 |             | 106            | 262           |           | 329         |
|                 |             | 107            | 263           |           | 330         |
|                 |             | 108            | 264           |           | 331         |
|                 |             | 109            | 265           |           | 332         |
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|                 |             | 114            | 270           |           | 337         |
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|                 |             | 117            | 273           |           | 340         |
|                 |             | 118            | 274           |           | 341         |
|                 |             | 119            | 275           |           | 342         |
|                 |             | 120            | 276           |           | 343         |
|                 |             | 121            | 277           |           | 344         |
|                 |             | 122            | 278           |           | 345         |
|                 |             | 123            | 279           |           | 346         |
|                 |             | 124            | 280           |           | 347         |
|                 |             | 125            | 281           |           | 348         |
|                 |             | 126            | 282           |           | 349         |
|                 |             | 127            | 283           |           | 350         |
|                 |             | 128            | 284           |           | 351         |
|                 |             | 129            | 285           |           | 352         |
|                 |             | 130            | 286           |           | 353         |
|                 |             | 131            | 287           |           | 354         |
|                 |             | 132            | 288           |           | 355         |
|                 |             | 133            | 289           |           | 356         |
|                 |             | 134            | 290           |           | 357         |
|                 |             | 135            | 291           |           | 358         |
|                 |             | 136            | 292           |           | 359         |
|                 |             | 137            | 293           |           | 360         |
|                 |             | 138            | 294           |           | 361         |
|                 |             | 139            | 295           |           | 362         |
|                 |             | 140            | 296           |           | 363         |
|                 |             | 141            | 297           |           | 364         |
|                 |             | 142            | 298           |           | 365         |
|                 |             | 143            | 299           |           | 366         |
|                 |             | 144            | 300           |           | 367         |
|                 |             | 145            | 301           |           | 368         |
|                 |             | 146            | 302           |           | 369         |
|                 |             | 147            | 303           |           | 370         |
|                 |             | 148            | 304           |           | 371         |
|                 |             | 149            | 305           |           | 372         |
|                 |             | 150            | 306           |           | 373         |
|                 |             | 151            | 307           |           | 374         |
|                 |             | 152            | 308           |           | 375         |
|                 |             | 153            | 309           |           | 376         |
|                 |             | 154            | 310           |           | 377         |
|                 |             | 155            | 311           |           | 378         |
|                 |             | 156            | 312           |           | 379         |
|                 |             | 157            | 313           |           | 380         |
|                 |             | 158            | 314           |           | 381         |
|                 |             | 159            | 315           |           | 382         |
|                 |             | 160            | 316           |           | 383         |
|                 |             | 161            | 317           |           | 384         |
|                 |             | 162            | 318           |           | 385         |
|                 |             | 163            | 319           |           | 386         |
|                 |             | 164            | 320           |           | 387         |
|                 |             | 165            | 321           |           | 388         |
|                 |             | 166            | 322           |           | 389         |
|                 |             | 167            | 323           |           | 390         |
|                 |             | 168            | 324           |           | 391         |
|                 |             | 169            | 325           |           | 392         |
|                 |             | 170            | 326           |           | 393         |
|                 |             | 171            | 327           |           | 394         |
|                 |             | 172            | 328           |           | 395         |
|                 |             | 173            | 329           |           | 396         |
|                 |             | 174            | 330           |           | 397         |
|                 |             | 175            | 331           |           | 398         |
|                 |             | 176            | 332           |           | 399         |
|                 |             | 177            | 333           |           | 400         |
|                 |             | 178            | 334           |           | 401         |
|                 |             | 179            | 335           |           | 402         |
|                 |             | 180            | 336           |           | 403         |
|                 |             | 181            | 337           |           | 404         |
|                 |             | 182            | 338           |           | 405         |
|                 |             | 183            | 339           |           | 406         |
|                 |             | 184            | 340           |           | 407         |
|                 |             | 185            | 341           |           | 408         |
|                 |             | 186            | 342           |           | 409         |
|                 |             | 187            | 343           |           | 410         |
|                 |             | 188            | 344           |           | 411         |
|                 |             | 189            | 345           |           | 412         |
|                 |             | 190            | 346           |           | 413         |
|                 |             | 191            | 347           |           | 414         |
|                 |             | 192            | 348           |           | 415         |
|                 |             | 193            | 349           |           | 416         |
|                 |             | 194            | 350           |           | 417         |
|                 |             | 195            | 351           |           | 418         |
|                 |             | 196            | 352           |           | 419         |
|                 |             | 197            | 353           |           | 420         |
|                 |             | 198            | 354           |           | 421         |
|                 |             | 199            | 355           |           | 422         |
|                 |             | 200            | 356           |           | 423         |
|                 |             | 201            | 357           |           | 424         |
|                 |             | 202            | 358           |           | 425         |
|                 |             | 203            | 359           |           | 426         |
|                 |             | 204            | 360           |           | 427         |
|                 |             | 205            | 361           |           | 428         |
|                 |             | 206            | 362           |           | 429         |
|                 |             | 207            | 363           |           | 430         |
|                 |             | 208            | 364           |           | 431         |
|                 |             | 209            | 365           |           | 432         |
|                 |             | 210            | 366           |           | 433         |
|                 |             | 211            | 367           |           | 434         |
|                 |             | 212            | 368           |           | 435         |
|                 |             | 213            | 369           |           | 436         |
|                 |             | 214            | 370           |           | 437         |
|                 |             | 215            | 371           |           | 438         |
|                 |             | 216            | 372           |           | 439         |
|                 |             | 217            | 373           |           | 440         |
|                 |             | 218            | 374           |           | 441         |
|                 |             | 219            | 375           |           | 442         |
|                 |             | 220            | 376           |           | 443         |
|                 |             | 221            | 377           |           | 444         |
|                 |             | 222            | 378           |           | 445         |
|                 |             | 223            | 379           |           | 446         |
|                 |             | 224            | 380           |           | 447         |
|                 |             | 225            | 381           |           | 448         |
|                 |             | 226            | 382           |           | 449         |
|                 |             | 227            | 383           |           | 450         |
|                 |             | 228            | 384           |           | 451         |
|                 |             | 229            | 385           |           | 452         |
|                 |             | 230            | 386           |           | 453         |
|                 |             | 231            | 387           |           | 454         |
|                 |             | 232            | 388           |           | 455         |
|                 |             | 233            | 389           |           | 456         |
|                 |             | 234            | 390           |           | 457         |
|                 |             | 235            | 391           |           | 458         |
|                 |             | 236            | 392           |           | 459         |
|                 |             | 237            | 393           |           | 460         |
|                 |             | 238            | 394           |           | 461         |
|                 |             | 239            | 395           |           | 462         |
|                 |             | 240            | 396           |           | 463         |
|                 |             | 241            | 397           |           | 464         |
|                 |             | 242            | 398           |           | 465         |
|                 |             | 243            | 399           |           | 466         |
|                 |             | 244            | 400           |           | 467         |
|                 |             | 245            | 401           |           | 468         |
|                 |             | 246            | 402           |           | 469         |
|                 |             | 247            | 403           |           | 470         |
|                 |             | 248            | 404           |           | 471         |
|                 |             | 249            | 405           |           | 472         |
|                 |             | 250            | 406           |           | 473         |
|                 |             | 251            | 407           |           | 474         |
|                 |             | 252            | 408           |           | 475         |
|                 |             | 253            | 409           |           | 476         |
|                 |             | 254            | 410           |           | 477         |
|                 |             | 255            | 411           |           | 478         |
|                 |             | 256            | 412           |           | 479         |
|                 |             | 257            | 413           |           | 480         |
|                 |             | 258            | 414           |           | 481         |
|                 |             | 259            | 415           |           | 482         |
|                 |             | 260            | 416           |           | 483         |
|                 |             | 261            | 417           |           | 484         |
|                 |             | 262            | 418           |           | 485         |
|                 |             |                |               |           |             |

|    |              |               |    |              |
|----|--------------|---------------|----|--------------|
| 6  | 50 (para. 6) | 165           | 13 | 239          |
| 7  | New          | 166           | 14 | 237          |
| 8  | "            | 167           | 15 | 238          |
| 9  | 58           | 168           | 16 | 239          |
| 10 | 57           | 169           | 17 | 235          |
| 11 | 53, 54       | 170           | 18 | 246          |
| 12 | 55           | New           | 19 | 217          |
| 13 | 56           | 171           | 20 | New          |
| 14 | 59           | 172           | 21 | 230 para. 2. |
| 15 | 50           | 173           | 22 | 213          |
| 16 | 61           | 174 (para. 1) | 23 | 249          |
| 17 | 62           | and 175       | 24 | 250, 251     |
| 18 | 63           | 176           | 25 | 235, 251     |
| 19 | 110          | 177           | 26 | 239, 240     |
| 20 | New          | 178           | 27 | 241          |
| 21 | 111          | 156           | 28 | 212          |
| 22 | New          | 157           | 29 | 243          |
| 23 | 112          | 158           | 30 | 234          |
| 24 | 113          | 179 (Exp)     | 31 | 239          |
| 25 | 96           | 179 & 180     | 32 | 260          |
| 26 | 97           | 180           | 33 | New          |
| 27 | 98           | 181           | 34 | 261, 262     |
| 28 | 99           | 182           | 35 | 263          |
| 29 | 99A          | 183           | 36 | 264          |
| 30 | 100          | 184           | 37 | 242D         |
| 31 | 101          | 184           | 38 | 2337         |
| 32 | 102          | 185           | 39 | 330, 340     |
| 33 | 103          | 186           | 40 | 337A         |
| 34 | 105          | 187           | 41 | 267          |
| 35 | 106          | 188           | 42 | 255          |
| 36 | 107          | 189           | 43 | 262          |
| 37 | 108          | 190           | 44 | New          |
| 38 | 109          | 191           | 45 | New          |
| 39 | 117          | 192           | 46 | 268          |
| 40 |              |               |    |              |
| 41 |              |               |    |              |
| 42 |              |               |    |              |
| 43 |              |               |    |              |
| 44 |              |               |    |              |
| 45 |              |               |    |              |
| 46 |              |               |    |              |









representative in necessary to within six  
 ks from the date of such notice, he will proceed to sell the  
 le or a sufficient part of the said property ; and, if on the  
 iration of the said six weeks the said balance is not so paid  
 Collector shall sell such property or part accordingly.

9. (1) The Collector shall, from time to time, render to the  
 Court which made the original  
 order for sale an account of all  
 monies which come to his hands  
 of all charges incurred by him in the exercise and performance  
 he powers and duties conferred and imposed on him under the  
 visions of this schedule, and shall hold the balance at the  
 posel of the Court.

(2) Such charges shall include all debts and liabilities from  
 ie to time due to the Government in respect of the property or

(a) in providing the maintenance of such members of the  
 judgment-debtor's family (if any) as are entitled to  
 be maintained out of the income of the property, to  
 such amount in the case of each member as the Court  
 thinks fit, and,

(b) where the Collector has proceeded under paragraph 1,  
 execution of  
 reable pro-  
 ler section

73 direct, or

(c) where the Collector has proceeded under paragraph  
 2,—

(i) in keeping down the interest on incumbrances on  
 the property,

(ii) where the judgment-debtor has no other sufficient  
 means of subsistence, in providing for his sub-

sentence to such amount as the Court thinks fit  
and

(iii) ... of the original  
debtors ...  
and ...  
claims were included in the amount ordered  
to be recovered.

(1) No other holder of a decree for the payment of money shall be entitled to be paid out of such property or balance ... the decree-holders who have obtained such order have been satisfied, and the residue (if any) shall be paid to the judgment-debtor or such other person as the Court directs.

10 Where the Collector sells any property under this Act ... he shall put it up to public auction in one or more lots as he thinks fit and may

(a) fix a reasonable reserved price for each lot;

(b) adjourn the sale for a reasonable time whenever for reasons to be recorded, he deems the adjournment necessary for the purpose of obtaining a fair price for the property

(c) buy in the property offered for sale, and re-sell the same by public auction or private contract, as he thinks fit.

11 So long as the Collector can exercise or perform in respect of the judgment-debtor's immovable property, or any part thereof, any of the powers or duties conferred or imposed on him by paragraphs 1 to 11 ... such powers ... Collector ... & property ...

Restrictions as to alienation by judgment-debtor or his representative and prosecution of suits by decree-holders

part in execution of a decree for the payment of money

(2) During the same period no Civil Court shall issue any process of execution either against the judgment-debtor or his property in respect of any decree for the satisfaction whereof provision has been made by the Collector under paragraph 7.

12 Where the property of which the sale has been ordered is situate in more districts than one, the powers and duties conferred and imposed on the Collector by paragraphs 1 to 10 shall be exercised and performed by such one of the Collectors of the said districts as the Local Government may by general rule or special order direct.

13 In exercising the powers conferred on him by paragraphs 1 to 10 the Collector shall have the powers of a Civil Court to compel the attendance and production of witnesses and the production of documents

## THE FOURTH SCHEDULE.

(See section 155.)

## ENACTMENTS AMENDED.

| Year | No. | Short title              | Amendment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|------|-----|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1870 | VII | The Limitation Act, 1870 | <p>In article 1 of Schedule I after the word "plaint" the words "written statement pleading a set-off or counter-claim" after the word "Act" the words "or of cross-objection" shall be inserted.</p> <p>From article 11 of Schedule II the words "from an order rejecting a plaint or" shall be omitted</p> <p>For the entry in the first column of Schedule II relating to article 19 the following entry shall be substituted namely—</p> <p>"Agreement in writing as to a question for the opinion of the Court under the Code of Civil Procedure, 1902"</p> |

# The Fifth Schedule,

(See section 150.)

## ENACTMENTS REPEALED.

| 1                                               | 2    | 3                                                         | 4                                                                                                                                                                                                                  |
|-------------------------------------------------|------|-----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Year.                                           | No.  | Subject or short title                                    | Extent of repeal.                                                                                                                                                                                                  |
| <i>Acts of the Governor-General in Council.</i> |      |                                                           |                                                                                                                                                                                                                    |
| 1870                                            | VII  | The Court-fees Act 1870                                   | Section 16, and article 15 of Schedule II.                                                                                                                                                                         |
| 1882                                            | IV   | The transfer of property Act 1882                         | Section 85 to 90 inclusive, 92 to 94 inclusive, 96, 97, 99 and in section 100 the words "and all the provisions hereinbefore contained as to a mortgage instituting a suit for the sale of the mortgaged property" |
| "                                               | XIV  | The Code of Civil Procedure.                              | The whole Act.                                                                                                                                                                                                     |
| "                                               | XV   | The Presidency Small Cause Courts Act 1882                | The last paragraph of section 3                                                                                                                                                                                    |
| 1888                                            | VI   | The Debtors Act, 1888                                     | Section 2 to 8                                                                                                                                                                                                     |
| "                                               | VII  | The Civil Procedure Code Amendment Act, 1888              | So much as is unrevoked, except section 1, section 65 and section 16, sub-section (1), (3), and (4).                                                                                                               |
| "                                               | X    | The Presidency Small Cause Courts Law Amendment Act, 1888 | So much as is unrevoked                                                                                                                                                                                            |
| 1890                                            | VIII | The Guardian and Wards Act, 1890                          | Section 13.                                                                                                                                                                                                        |



| 1    | 2   | 3                      | 4                |
|------|-----|------------------------|------------------|
| Year | No. | Subject or short title | Extent of repeal |

*Acts of the Governor General in Council*

|      |      |                                                                       |                                                                                               |
|------|------|-----------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| 1891 | XII  | The Repealing and Amending Act 1891                                   | So much as relates to Act XIV of 1882 and Act VII of 1858                                     |
| 1892 | VI   | The Indian Limitation Act and Civil Procedure Code Amendment Act 1892 | In the title and preamble the words "and the Code of Civil Procedure" and section 2, 3, and 4 |
| 1894 | V    | The Civil Procedure Code Amendment Act, 1894.                         | The whole Act                                                                                 |
| 1895 | XII  | The Punjab Laws Act Amendment Act, 1895                               | Section 1 and 2                                                                               |
| "    | XIII | The Civil Procedure Code Amendment Act, 1895.                         | The whole Act                                                                                 |
| 1900 | VI   | The Lower Burma Courts Act, 1900                                      | So much of the schedules as relate to Act XIV of 1882                                         |



the new Act with the corresponding sections of the old Act.

( 160 )

| New Act. | Old Act    | New Act | Old Act  | New Act  | Old Act         |
|----------|------------|---------|----------|----------|-----------------|
| Sec 1    | Sec 1      | 62      | 271      | 140      |                 |
| 2        | 2          | 63      | 285      | 131      | 652, para 2     |
| 3        | 211, Exp   | 64      | 276      | 132      | 652, para 4     |
| 4        | 4          | 65      | New of   | 133      | 640             |
| 5        | 43         | 66      | 8, 116   | 134      | 641             |
| 6        | 6 (last)   | 67      | 317      | 135      | New             |
| 7        | para       | 68      | 327      | 136      | 642             |
| 8        | 5          | 69      | 330      | 137      | 643             |
| 9        | 8          | 70      | New      |          |                 |
| 10       | 11         | 71      | 320      | 138      | 187A            |
| 11       | 12         | 72      | 326      | 139      | 197             |
| 12       | 13         | 73      | 297      | 140      | 615A            |
| 13       | New        | 74      | 310      | 141      | 617             |
| 14       | 14         | 75      | New      | 142      | 91              |
| 15       | 13 (Exp 6) | 76      | 183      | 143      | 95              |
| 16       | 15         | 77      | New      | 144      | 583             |
| 17       | 16         | 78      | 391      | 145      | 253             |
| 18       | 17         | 79      | 416      | 146, 151 | New             |
| 19       | 18A        | 80      | 421      | 152      | cf. 206, para 3 |
| 20       | 18         | 81      | 425, 428 | 153      | New             |
| 21       | 17         | 82      | 429      | 154      | 3, para 1,      |
| 22       | 16A (2)    | 83      | 430      | 155      | New             |
| 23       | 21, 24     | 84      | 431      | 156      | 1, sent. 1,     |
| 24       | 25         | 85      | 432      | 157      | 1, para 2,      |
| 25       | New        | 86      | 433      | 158      | 20              |
| 26       | 43         | 87      | 434      | 159      | New             |
| 27       | 43         | 88      | 435      | 160      | 24              |
|          |            | 89      | 436      | 161      | 25              |

|    |           |         |                 |           |            |
|----|-----------|---------|-----------------|-----------|------------|
| 28 | 85        | 90      | 527             | 6         | 29         |
| 29 | 650A      | 91      | New             | 7         | New        |
| 30 | New       | 92      | 539             | 8         | 30, 32     |
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| 32 | "         | 94      | New             | 10        | 27, 32     |
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| 34 | 200       | 96      | 540             | 12        | 33         |
| 35 | 220, 223  | 97      | New             | 13        | 34         |
| 36 | New       | 98      | 575             | O 2, r 1  | 42         |
| 37 | 649 (Exp) | 99      | 578             | 2         | 43         |
| 38 | 223       | 100     | 581             | 3         | 44         |
| 39 | 223       | 101     | 585             | 4         | 45         |
| 40 | New       | 102     | 586             | 5         | 46         |
| 41 | 223       | 103     | New             | 6         | Q, 46, 47, |
| 42 | 228       | 104     | 588             | 7         | 48         |
| 43 | 229       | 105     | 591             | O, 3, r 1 | 49         |
| 44 | 229B      | 106     | 589             | 1         | 50         |
| 45 | 229A      | 107     | 582             | 2         | 51         |
| 46 | New       | 108     | 587, 590        | 3         | 52         |
| 47 | 244       | 109     | 595             | 4         | 53         |
| 48 | 230       | 110     | 596             | 5         | 54         |
| 49 | 233       | 111     | 597             | 6         | 55         |
| 50 | 234       | 112     | 616             | O 4, r 1  | 56         |
| 51 | New       | 113     | 617             | O 5, r 1  | 57         |
| 52 | 252       | 114     | 623             | 2         | 58         |
| 53 | New       | 115     | 622             | 3         | 59         |
| 54 | 265       | 116     | 631             | 4         | 60         |
| 55 | 338       | 117     | 632             | 5         | 61         |
| 56 | 245A      | 118     | 634             | 6         | 62         |
| 57 | 338       | 119     | 635             | 7         | 63         |
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| 104 | 174         | 104 |             |    |              |
| 105 | 175         | 105 |             |    |              |
| 106 | 176         | 106 |             |    |              |
| 107 | 177         | 107 |             |    |              |
| 108 | 178         | 108 |             |    |              |
| 109 | 179         | 109 |             |    |              |
| 110 | 180         | 110 |             |    |              |
| 111 | 181         | 111 |             |    |              |
| 112 | 182         | 112 |             |    |              |
| 113 | 183         | 113 |             |    |              |
| 114 | 184         | 114 |             |    |              |
| 115 | 185         | 115 |             |    |              |
| 116 | 186         | 116 |             |    |              |
| 117 | 187         | 117 |             |    |              |
| 118 | 188         | 118 |             |    |              |
| 119 | 189         | 119 |             |    |              |
| 120 | 190         | 120 |             |    |              |
| 121 | 191         | 121 |             |    |              |
| 122 | 192         | 122 |             |    |              |
| 123 | 193         | 123 |             |    |              |
| 124 | 194         | 124 |             |    |              |
| 125 | 195         | 125 |             |    |              |
| 126 | 196         | 126 |             |    |              |
| 127 | 197         | 127 |             |    |              |
| 128 | 198         | 128 |             |    |              |
| 129 | 199         | 129 |             |    |              |
| 130 | 200         | 130 |             |    |              |
| 131 | 201         | 131 |             |    |              |
| 132 | 202         | 132 |             |    |              |
| 133 | 203         | 133 |             |    |              |
| 134 | 204         | 134 |             |    |              |
| 135 | 205         | 135 |             |    |              |
| 136 | 206         | 136 |             |    |              |
| 137 | 207         | 137 |             |    |              |
| 138 | 208         | 138 |             |    |              |
| 139 | 209         | 139 |             |    |              |
| 140 | 210         | 140 |             |    |              |
| 141 | 211         | 141 |             |    |              |
| 142 | 212         | 142 |             |    |              |
| 143 | 213         | 143 |             |    |              |
| 144 | 214         | 144 |             |    |              |
| 145 | 215         | 145 |             |    |              |
| 146 | 216         | 146 |             |    |              |
| 147 | 217         | 147 |             |    |              |
| 148 | 218         | 148 |             |    |              |
| 149 | 219         | 149 |             |    |              |
| 150 | 220         | 150 |             |    |              |
| 151 | 221         | 151 |             |    |              |
| 152 | 222         | 152 |             |    |              |
| 153 | 223         | 153 |             |    |              |
| 154 | 224         | 154 |             |    |              |
| 155 | 225         | 155 |             |    |              |
| 156 | 226         | 156 |             |    |              |
| 157 | 227         | 157 |             |    |              |
| 158 | 228         | 158 |             |    |              |
| 159 | 229         | 159 |             |    |              |
| 160 | 230         | 160 |             |    |              |
| 161 | 231         | 161 |             |    |              |
| 162 | 232         | 162 |             |    |              |
| 163 | 233         | 163 |             |    |              |
| 164 | 234         | 164 |             |    |              |
| 165 | 235         | 165 |             |    |              |
| 166 | 236         | 166 |             |    |              |
| 167 | 237         | 167 |             |    |              |
| 168 | 238         | 168 |             |    |              |
| 169 | 239         | 169 |             |    |              |
| 170 | 240         | 170 |             |    |              |
| 171 | 241         | 171 |             |    |              |
| 172 | 242         | 172 |             |    |              |
| 173 | 243         | 173 |             |    |              |
| 174 | 244         | 174 |             |    |              |
| 175 | 245         | 175 |             |    |              |
| 176 | 246         | 176 |             |    |              |
| 177 | 247         | 177 |             |    |              |
| 178 | 248         | 178 |             |    |              |
| 179 | 249         | 179 |             |    |              |
| 180 | 250         | 180 |             |    |              |
| 181 | 251         | 181 |             |    |              |
| 182 | 252         | 182 |             |    |              |
| 183 | 253         | 183 |             |    |              |
| 184 | 254         | 184 |             |    |              |
| 185 | 255         | 185 |             |    |              |
| 186 | 256         | 186 |             |    |              |
| 187 | 257         | 187 |             |    |              |
| 188 | 258         | 188 |             |    |              |
| 189 | 259         | 189 |             |    |              |
| 190 | 260         | 190 |             |    |              |
| 191 | 261         | 191 |             |    |              |
| 192 | 262         | 192 |             |    |              |
| 193 | 263         | 193 |             |    |              |
| 194 | 264         | 194 |             |    |              |
| 195 | 265         | 195 |             |    |              |
| 196 | 266         | 196 |             |    |              |
| 197 | 267         | 197 |             |    |              |
| 198 | 268         | 198 |             |    |              |
| 199 | 269         | 199 |             |    |              |
| 200 | 270         | 200 |             |    |              |
| 201 | 271         | 201 |             |    |              |
| 202 | 272         | 202 |             |    |              |
| 203 | 273         | 203 |             |    |              |
| 204 | 274         | 204 |             |    |              |
| 205 | 275         | 205 |             |    |              |
| 206 | 276         | 206 |             |    |              |
| 207 | 277         | 207 |             |    |              |
| 208 | 278         | 208 |             |    |              |
| 209 | 279         | 209 |             |    |              |
| 210 | 280         | 210 |             |    |              |
| 211 | 281         | 211 |             |    |              |
| 212 | 282         | 212 |             |    |              |
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| 214 | 284         | 214 |             |    |              |
| 215 | 285         | 215 |             |    |              |
| 216 | 286         | 216 |             |    |              |
| 217 | 287         | 217 |             |    |              |
| 218 | 288         | 218 |             |    |              |
| 219 | 289         | 219 |             |    |              |
| 220 | 290         | 220 |             |    |              |
| 221 | 291         | 221 |             |    |              |
| 222 | 292         | 222 |             |    |              |
| 223 | 293         | 223 |             |    |              |
| 224 | 294         | 224 |             |    |              |
| 225 | 295         | 225 |             |    |              |
| 226 | 296         | 226 |             |    |              |
| 227 | 297         | 227 |             |    |              |
| 228 | 298         | 228 |             |    |              |
| 229 | 299         | 229 |             |    |              |
| 230 | 300         | 230 |             |    |              |
| 231 | 301         | 231 |             |    |              |
| 232 | 302         | 232 |             |    |              |
| 233 | 303         | 233 |             |    |              |
| 234 | 304         | 234 |             |    |              |
| 235 | 305         | 235 |             |    |              |
| 236 | 306         | 236 |             |    |              |
| 237 | 307         | 237 |             |    |              |
| 238 | 308         | 238 |             |    |              |
| 239 | 309         | 239 |             |    |              |
| 240 | 310         | 240 |             |    |              |
| 241 | 311         | 241 |             |    |              |
| 242 | 312         | 242 |             |    |              |
| 243 | 313         | 243 |             |    |              |
| 244 | 314         | 244 |             |    |              |
| 245 | 315         | 245 |             |    |              |
| 246 | 316         | 246 |             |    |              |
| 247 | 317         | 247 |             |    |              |
| 248 | 318         | 248 |             |    |              |
| 249 | 319         | 249 |             |    |              |
| 250 | 320         | 250 |             |    |              |
| 251 | 321         | 251 |             |    |              |
| 252 | 322         | 252 |             |    |              |
| 253 | 323         | 253 |             |    |              |
| 254 | 324         | 254 |             |    |              |
| 255 | 325         | 255 |             |    |              |
| 256 | 326         | 256 |             |    |              |
| 257 | 327         | 257 |             |    |              |
| 258 | 328         | 258 |             |    |              |
| 259 | 329         | 259 |             |    |              |
| 260 | 330         | 260 |             |    |              |
| 261 | 331         | 261 |             |    |              |
| 262 | 332         | 262 |             |    |              |
| 263 | 333         | 263 |             |    |              |
| 264 | 334         | 264 |             |    |              |
| 265 | 335         | 265 |             |    |              |
| 266 | 336         | 266 |             |    |              |
| 267 | 337         | 267 |             |    |              |
| 268 | 338         | 268 |             |    |              |
| 269 | 339         | 269 |             |    |              |
| 270 | 340         | 270 |             |    |              |
| 271 | 341         | 271 |             |    |              |
| 272 | 342         | 272 |             |    |              |
| 273 | 343         | 273 |             |    |              |
| 274 | 344         | 274 |             |    |              |
| 275 | 345         | 275 |             |    |              |
| 276 | 346         | 276 |             |    |              |
| 277 | 347         | 277 |             |    |              |
| 278 | 348         | 278 |             |    |              |
| 279 | 349         | 279 |             |    |              |
| 280 | 350         | 280 |             |    |              |
| 281 | 351         | 281 |             |    |              |
| 282 | 352         | 282 |             |    |              |
| 283 | 353         | 283 |             |    |              |
| 284 | 354         | 284 |             |    |              |
| 285 | 355         | 285 |             |    |              |
| 286 | 356         | 286 |             |    |              |
| 287 | 357         | 287 |             |    |              |
| 288 | 358         | 288 |             |    |              |
| 289 | 359         | 289 |             |    |              |
| 290 | 360         | 290 |             |    |              |
| 291 | 361         | 291 |             |    |              |
| 292 | 362         | 292 |             |    |              |
| 293 | 363         | 293 |             |    |              |
| 294 | 364         | 294 |             |    |              |
| 295 | 365         |     |             |    |              |

| New Act.         | Old Act | New Act | Old Act | New Act  | Old Act |
|------------------|---------|---------|---------|----------|---------|
| O 10, r. 2       | 118     | 17      | 193     | 17 to 50 | New     |
| 3                | 119     | 18      |         | 51       | 270     |
| 4                | 120     | 19      | 194     | 72       | 272     |
| O 11, rr 1 to 20 | New     | 20      | 195     | 73       | 273     |
| O 21 r 54        | 274     | 1       | 196     |          |         |
| 55               | 275     | 2       | 197     |          |         |
| 56               | 276     | 3       | 198     |          |         |
| 57               | 277     | 4       | 199     |          |         |
| 58               | 278     | 5       | 200     |          |         |
| 59               | 279     | 6       | 201     |          |         |
| 60               | 280     | 7       | 202     |          |         |
| 61               | 281     | 8       | 203     |          |         |
| 62               | 282     | 9       | 204     |          |         |
| 63               | 283     | 10      | 205     |          |         |
| 64               | 284     | 11      | 206     |          |         |
| 65               | 285     | 12      | 207     |          |         |
| 66               | 286     | 13      | 208     |          |         |
| 67               | 287     | 14      | 209     |          |         |
| 68               | 288     | 15      | 210     |          |         |
| 69               | 289     | 16      | 211     |          |         |
| 70               | 290     | 17      | 212     |          |         |
| 71               | 291     | 18      | 213     |          |         |
| 72               | 292     | 19      | 214     |          |         |
| 73               | 293     | 20      | 215     |          |         |
| 74               | 294     | 21      | 216     |          |         |
| 75               | 295     | 22      | 217     |          |         |
| 76               | 296     | 23      | 218     |          |         |
| 77               | 297     | 24      | 219     |          |         |
| 78               | 298     | 25      | 220     |          |         |
| 79               | 299     | 26      | 221     |          |         |
| 80               | 300     | 27      | 222     |          |         |
|                  | 301     | 28      | 223     |          |         |
|                  | 302     | 29      | 224     |          |         |
|                  | 303     | 30      | 225     |          |         |
|                  | 304     | 31      | 226     |          |         |
|                  | 305     | 32      | 227     |          |         |
|                  | 306     | 33      | 228     |          |         |
|                  | 307     | 34      | 229     |          |         |
|                  | 308     | 35      | 230     |          |         |
|                  | 309     | 36      | 231     |          |         |
|                  | 310     | 37      | 232     |          |         |
|                  | 311     | 38      | 233     |          |         |
|                  | 312     | 39      | 234     |          |         |
|                  | 313     | 40      | 235     |          |         |
|                  | 314     | 41      | 236     |          |         |
|                  | 315     | 42      | 237     |          |         |
|                  | 316     | 43      | 238     |          |         |
|                  | 317     | 44      | 239     |          |         |
|                  | 318     | 45      | 240     |          |         |
|                  | 319     | 46      | 241     |          |         |
|                  | 320     | 47      | 242     |          |         |
|                  | 321     | 48      | 243     |          |         |
|                  | 322     | 49      | 244     |          |         |
|                  | 323     | 50      | 245     |          |         |
|                  | 324     | 51      | 246     |          |         |
|                  | 325     | 52      | 247     |          |         |
|                  | 326     | 53      | 248     |          |         |
|                  | 327     | 54      | 249     |          |         |
|                  | 328     | 55      | 250     |          |         |
|                  | 329     | 56      | 251     |          |         |
|                  | 330     | 57      | 252     |          |         |
|                  | 331     | 58      | 253     |          |         |
|                  | 332     | 59      | 254     |          |         |
|                  | 333     | 60      | 255     |          |         |
|                  | 334     | 61      | 256     |          |         |
|                  | 335     | 62      | 257     |          |         |
|                  | 336     | 63      | 258     |          |         |
|                  | 337     | 64      | 259     |          |         |
|                  | 338     | 65      | 260     |          |         |
|                  | 339     | 66      | 261     |          |         |
|                  | 340     | 67      | 262     |          |         |
|                  | 341     | 68      | 263     |          |         |
|                  | 342     | 69      | 264     |          |         |
|                  | 343     | 70      | 265     |          |         |
|                  | 344     | 71      | 266     |          |         |
|                  | 345     | 72      | 267     |          |         |
|                  | 346     | 73      | 268     |          |         |
|                  | 347     | 74      | 269     |          |         |
|                  | 348     | 75      | 270     |          |         |
|                  | 349     | 76      | 271     |          |         |
|                  | 350     | 77      | 272     |          |         |
|                  | 351     | 78      | 273     |          |         |
|                  | 352     | 79      | 274     |          |         |
|                  | 353     | 80      | 275     |          |         |
|                  | 354     | 81      | 276     |          |         |
|                  | 355     | 82      | 277     |          |         |
|                  | 356     | 83      | 278     |          |         |
|                  | 357     | 84      | 279     |          |         |
|                  | 358     | 85      | 280     |          |         |
|                  | 359     | 86      | 281     |          |         |
|                  | 360     | 87      | 282     |          |         |
|                  | 361     | 88      | 283     |          |         |
|                  | 362     | 89      | 284     |          |         |
|                  | 363     | 90      | 285     |          |         |
|                  | 364     | 91      | 286     |          |         |
|                  | 365     | 92      | 287     |          |         |
|                  | 366     | 93      | 288     |          |         |
|                  | 367     | 94      | 289     |          |         |
|                  | 368     | 95      | 290     |          |         |
|                  | 369     | 96      | 291     |          |         |
|                  | 370     | 97      | 292     |          |         |
|                  | 371     | 98      | 293     |          |         |
|                  | 372     | 99      | 294     |          |         |
|                  | 373     | 100     | 295     |          |         |
|                  | 374     | 101     | 296     |          |         |
|                  | 375     | 102     | 297     |          |         |
|                  | 376     | 103     | 298     |          |         |
|                  | 377     | 104     | 299     |          |         |
|                  | 378     | 105     | 300     |          |         |
|                  | 379     | 106     | 301     |          |         |
|                  | 380     | 107     | 302     |          |         |
|                  | 381     | 108     | 303     |          |         |
|                  | 382     | 109     | 304     |          |         |
|                  | 383     | 110     | 305     |          |         |
|                  | 384     | 111     | 306     |          |         |
|                  | 385     | 112     | 307     |          |         |
|                  | 386     | 113     | 308     |          |         |
|                  | 387     | 114     | 309     |          |         |
|                  | 388     | 115     | 310     |          |         |
|                  | 389     | 116     | 311     |          |         |
|                  | 390     | 117     | 312     |          |         |
|                  | 391     | 118     | 313     |          |         |
|                  | 392     | 119     | 314     |          |         |
|                  | 393     | 120     | 315     |          |         |
|                  | 394     | 121     | 316     |          |         |
|                  | 395     | 122     | 317     |          |         |
|                  | 396     | 123     | 318     |          |         |
|                  | 397     | 124     | 319     |          |         |
|                  | 398     | 125     | 320     |          |         |
|                  | 399     | 126     | 321     |          |         |
|                  | 400     | 127     | 322     |          |         |
|                  | 401     | 128     | 323     |          |         |
|                  | 402     | 129     | 324     |          |         |
|                  | 403     | 130     | 325     |          |         |
|                  | 404     | 131     | 326     |          |         |
|                  | 405     | 132     | 327     |          |         |
|                  | 406     | 133     | 328     |          |         |
|                  | 407     | 134     | 329     |          |         |
|                  | 408     | 135     | 330     |          |         |
|                  | 409     | 136     | 331     |          |         |
|                  | 410     | 137     | 332     |          |         |
|                  | 411     | 138     | 333     |          |         |
|                  | 412     | 139     | 334     |          |         |
|                  | 413     | 140     | 335     |          |         |
|                  | 414     | 141     | 336     |          |         |
|                  | 415     | 142     | 337     |          |         |
|                  | 416     | 143     | 338     |          |         |
|                  | 417     | 144     | 339     |          |         |
|                  | 418     | 145     | 340     |          |         |
|                  | 419     | 146     | 341     |          |         |
|                  | 420     | 147     | 342     |          |         |
|                  | 421     | 148     | 343     |          |         |
|                  | 422     | 149     | 344     |          |         |
|                  | 423     | 150     | 345     |          |         |
|                  | 424     | 151     | 346     |          |         |
|                  | 425     | 152     | 347     |          |         |
|                  | 426     | 153     | 348     |          |         |
|                  | 427     | 154     | 349     |          |         |
|                  | 428     | 155     | 350     |          |         |
|                  | 429     | 156     | 351     |          |         |
|                  | 430     | 157     | 352     |          |         |
|                  | 431     | 158     | 353     |          |         |
|                  | 432     | 159     | 354     |          |         |
|                  | 433     | 160     | 355     |          |         |
|                  | 434     | 161     | 356     |          |         |
|                  | 435     | 162     | 357     |          |         |
|                  | 436     | 163     | 358     |          |         |
|                  | 437     | 164     | 359     |          |         |
|                  | 438     | 165     | 360     |          |         |
|                  | 439     | 166     | 361     |          |         |
|                  | 440     | 167     | 362     |          |         |
|                  | 441     | 168     | 363     |          |         |
|                  | 442     | 169     | 364     |          |         |
|                  | 443     | 170     | 365     |          |         |
|                  | 444     | 171     | 366     |          |         |
|                  | 445     | 172     | 367     |          |         |
|                  | 446     | 173     | 368     |          |         |
|                  | 447     | 174     | 369     |          |         |
|                  | 448     | 175     | 370     |          |         |
|                  | 449     | 176     | 371     |          |         |
|                  | 450     | 177     | 372     |          |         |
|                  | 451     | 178     | 373     |          |         |
|                  | 452     | 179     | 374     |          |         |
|                  | 453     | 180     | 375     |          |         |
|                  | 454     | 181     | 376     |          |         |
|                  | 455     | 182     | 377     |          |         |
|                  | 456     | 183     | 378     |          |         |
|                  | 457     | 184     | 379     |          |         |
|                  | 458     | 185     | 380     |          |         |
|                  | 459     | 186     | 381     |          |         |
|                  | 460     | 187     | 382     |          |         |
|                  | 461     | 188     | 383     |          |         |
|                  | 462     | 189     | 384     |          |         |
|                  | 463     | 190     | 385     |          |         |
|                  | 464     | 191     | 386     |          |         |
|                  | 465     | 192     | 387     |          |         |
|                  | 466     | 193     | 388     |          |         |
|                  | 467     | 194     | 389     |          |         |
|                  | 468     | 195     | 390     |          |         |
|                  | 469     | 196     | 391     |          |         |
|                  | 470     | 197     | 392     |          |         |
|                  | 471     | 198     | 393     |          |         |
|                  | 472     | 199     | 394     |          |         |
|                  | 473     | 200     | 395     |          |         |
|                  | 474     | 201     | 396     |          |         |
|                  | 475     | 202     | 397     |          |         |
|                  | 476     | 203     | 398     |          |         |
|                  | 477     | 204     | 399     |          |         |
|                  | 478     | 205     | 400     |          |         |
|                  | 479     | 206     | 401     |          |         |
|                  | 480     | 207     | 402     |          |         |
|                  | 481     | 208     | 403     |          |         |
|                  | 482     | 209     | 404     |          |         |
|                  | 483     | 210     | 405     |          |         |
|                  | 484     | 211     | 406     |          |         |
|                  | 485     | 212     | 407     |          |         |
|                  | 486     | 213     | 408     |          |         |
|                  | 487     | 214     | 409     |          |         |
|                  | 488     | 215     | 410     |          |         |
|                  | 489     | 216     | 411     |          |         |
|                  | 490     | 217     | 412     |          |         |
|                  | 491     | 218     | 413     |          |         |
|                  | 492     | 219     | 414     |          |         |
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|                  | 495     | 222     | 417     |          |         |
|                  | 496     | 223     | 418     |          |         |
|                  | 497     | 224     | 419     |          |         |
|                  | 498     | 225     | 420     |          |         |
|                  | 499     | 226     | 421     |          |         |
|                  | 500     | 227     | 422     |          |         |
|                  | 501     | 228     | 423     |          |         |
|                  | 502     | 229     | 424     |          |         |
|                  | 503     | 230     | 425     |          |         |
|                  | 504     | 231     | 426     |          |         |
|                  | 505     | 232     | 427     |          |         |
|                  | 506     | 233     | 428     |          |         |
|                  | 507     | 234     | 429     |          |         |
|                  | 508     | 235     | 430     |          |         |
|                  | 509     | 236     | 431     |          |         |
|                  | 510     | 237     | 432     |          |         |
|                  | 511     | 238     | 433     |          |         |
|                  | 512     | 239     | 434     |          |         |
|                  | 513     | 240     | 435     |          |         |
|                  | 514     | 241     | 436     |          |         |
|                  | 515     | 242     | 437     |          |         |
|                  | 516     | 243     | 438     |          |         |
|                  | 517     | 244     | 439     |          |         |
|                  | 518     | 245     | 440     |          |         |
|                  | 519     | 246     | 441     |          |         |
|                  | 520     | 247     | 442     |          |         |
|                  | 521     | 248     | 443     |          |         |
|                  | 522     | 249     | 444     |          |         |
|                  | 523     | 250     | 445     |          |         |
|                  | 524     | 251     | 446     |          |         |
|                  | 525     | 252     | 447     |          |         |
|                  | 526     | 253     | 448     |          |         |
|                  | 527     | 254     | 449     |          |         |
|                  | 528     | 255     | 450     |          |         |
|                  | 529     | 256     | 451     |          |         |
|                  | 530     | 257     | 452     |          |         |
|                  | 531     | 258     | 453     |          |         |
|                  | 532     | 259     | 454     |          |         |
|                  | 533     | 260     | 455     |          |         |
|                  | 534     | 261     | 456     |          |         |
|                  | 535     | 262     | 457     |          |         |
|                  | 536     | 263     | 458     |          |         |
|                  | 537     | 264     | 459     |          |         |
|                  | 538     | 265     | 460     |          |         |
|                  | 539     | 266     | 461     |          |         |
|                  | 540     | 267     | 462     |          |         |
|                  | 541     | 268     | 463     |          |         |
|                  | 542     | 269     | 464     |          |         |
|                  | 543     | 270     | 465     |          |         |
|                  | 544     | 271     | 466     |          |         |
|                  | 545     | 272     | 467     |          |         |
|                  | 546     | 273     | 468     |          |         |
|                  | 547     | 274     | 469     |          |         |
|                  | 548     | 275     | 470     |          |         |
|                  | 549     | 276     | 471     |          |         |
|                  | 550     | 277     | 472     |          |         |
|                  | 551     | 278     | 473     |          |         |
|                  | 552     | 279     | 474     |          |         |
|                  | 553     | 280     | 475     |          |         |
|                  | 554     | 281     | 476     |          |         |
|                  | 555     | 282     | 477     |          |         |
|                  | 556     | 283     | 478     |          |         |
|                  | 557     | 284     | 479     |          |         |
|                  | 558     | 285     | 480     |          |         |
|                  | 559     | 286     | 481     |          |         |
|                  | 560     | 287     | 482     |          |         |
|                  | 561     | 288     | 483     | </       |         |

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| New Act.     | Old Act. | New Act.    | Old Act.       | New Act.    | Old Act.      |
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| O. 23, r. 1  | 373      | 8           | 419            | 1           | 514           |
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| 3            | 375      | 10          | 411            | 6           | 516           |
| 4            | 375 A.   | 11          | 413            | 7           | 547           |
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| 18           | 357      | 2           | 593            | 2           | 624           |
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| 20           | 359      | 2           | 598            | 4           | 626           |
| 21           | 360      | 3           | 600            | 5           | 627           |
| 22           | 361      | 4 6         | New            | 6           | 634           |
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THE  
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LAW COMPANION  
IN FIVE VOLUMES.

EDITED BY

M. L. AGARWALA, B. SC., LL. B., (LONDON.)

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| Gender                                                         | ... | " |
| Number                                                         | ... | " |
| "Man"                                                          | ... | " |
| "Woman"                                                        | ... | " |
| "Person"                                                       | ... | " |
| "Public"                                                       | ... | " |
| "Queen"                                                        | ... | " |
| "servants of the Queen"                                        | ... | " |
| "British India"                                                | ... | " |
| "Government of India"                                          | ... | " |
| "Government"                                                   | ... | " |
| "Presidency"                                                   | ... | " |
| "Judge"                                                        | ... | " |
| "Court of Justice"                                             | ... | " |
| "Public servant"                                               | ... | " |
| "Movable property"                                             | ... | " |
| "Wrongful gain"                                                | ... | " |
| "Wrongful loss"                                                | ... | " |
| "Gaining wrongfully"                                           | ... | " |
| "Losing wrongfully"                                            | ... | " |
| "Dishonestly"                                                  | ... | " |
| "Fraudulently"                                                 | ... | " |
| "Reason to believe"                                            | ... | " |
| "Property in possession of wife, clerk, or servant"            | ... | " |
| "Counterfeit"                                                  | ... | " |
| "Document"                                                     | ... | " |
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| "A will"                                                       | ... | " |

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| rest in having delivery of property              | .. |

*Value of Deeds and Dispositions of Property.*

the removal or concealment of property to the  
 detriment of creditors

preventing debt being available for

... of deed of transfer containing false

[illegible]

Of Mischief.

Mark me...  
47 or ...

causing damage to the amount of

4) by animal of the value of ten

instruction, &c., &c. or any animal of the nature

tion, or by wrongfully direct

1944, 1945, 1946, 1947, 1948, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 26

obstruction to public health

rendering less useful and less

... a land mark fixed by ...

1. DATE 1-1-68

100

§ 1

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## CHAPTER XXII

## OF CRIMINAL INTIMIDATION, INSULT, AND ANNOYANCE

|                                                                                                     |     |
|-----------------------------------------------------------------------------------------------------|-----|
| Criminal intimidation                                                                               | ... |
| Intentional insult with intent to provoke a breach of the peace                                     | ... |
| Statements conducing to public mischief                                                             | ... |
| Punishment for criminal intimidation                                                                | ... |
| If threat be to cause death or grievous hurt, &c.                                                   | ... |
| Criminal intimidation by an anonymous communication                                                 | ... |
| Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure | ... |
| Words or gesture intended to insult the modesty of a woman                                          | ... |
| Misconduct in public by a drunken person                                                            | ... |

## CHAPTER XXIII

## OF ATTEMPTS TO COMMIT OFFENCES

|                                                                                             |     |
|---------------------------------------------------------------------------------------------|-----|
| Punishment for attempting to commit offences punishable with transportation or imprisonment | ... |
|---------------------------------------------------------------------------------------------|-----|

# ACT XLV. OF 1860.

## The Indian Penal Code.

'RECEIVED G.-G.'S ASSENT ON OCT. 6, 1860.

### CHAPTER I.

#### INTRODUCTION.

**WHEREAS** it is expedient to provide a General Penal Code for British India ; It is enacted as follows :—

Preamble

1. This Act shall be called "The Indian Penal Code," and shall take effect.....

Title and extent of operation of the Code

throughout the whole of the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Victoria, chapter 106, entitled "An Act for the Better Government of India."

2 Every person shall be liable to punishment under this Code, and not otherwise, for every act or omission contrary to the provisions thereof of which he shall be guilty within the said territories.

Punishment of offences committed within the said territories.

3. Any person liable, by any law passed by the Governor-General of India in Council, to be tried for an offence committed beyond the limits of the said territories, shall be dealt with according to the provisions

Punishment of offences committed beyond, but which by law may be tried within, the territories

of this Code for any act committed beyond the said territories in the same manner as if such act had been committed within the said territories.

*Extension of Code to extra-territorial offences.*

4. The provisions of the Code apply also to any offence committed by—

- (1) any Native Indian subject of Her Majesty in any place without and beyond British India.
- (2) any other British subject within the territories of any Native Prince or Chief in India ;
- (3) any servant of the Queen, whether a British subject or not, within the territories of any Native Prince or Chief in India.

*Explanation.* In this section the word, 'offence' includes every act committed outside British India which, if committed in British India, would be punishable under this Code.

#### *Illustrations.*

(a) A, a coolie who is a Native Indian subject, commits a murder in Uganda. He can be tried and convicted of murder in any place in British India in which he may be found.

(b) B, a European British subject, commits a murder in Kashmir. He can be tried and convicted of murder in any place in British India in which he may be found.

(c) C, a foreigner, who is in the service of the Punjab Government, commits a murder in Jhind. He can be tried and convicted of murder at any place in British India in which he may be found.

(d) D, a British subject living in Indore, instigates E to commit a murder in Bombay. D is guilty of abetting murder.

5. Nothing in this Act is intended to repeal.

Certain laws not to be affected by this Act.

vary, suspend, or affect any of the provisions of the Statute 3 and 4, William IV., chapter 23,

of any Act of Parliament passed after that Statute, or anywise affecting the East India Company, or the said territories of the inhabitants thereof; or any of the provisions of any Act for punishing mutiny and desertion of officers and soldiers in the service of Her Majesty, or of any special or local law.

## CHAPTER II.

### GENERAL EXPLANATIONS.

6. Throughout this Code, every definition of an offence<sup>1</sup>, every penal provision<sup>2</sup>, and every illustration<sup>3</sup> of every such definition or penal provision, shall be understood subject to the exceptions contained in the chapter entitled "General Exceptions," though those exceptions are not repeated in such definition, penal provision, or illustration.

#### *Illustrations.*

(a) The sections in this Code which contain definitions of offences do not express that a child under seven years of age cannot commit such offences; but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(b) A, a police-officer, without warrant, apprehends Z, who has committed murder. Here A is not guilty of the offence of wrongful confinement; for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that "nothing is an offence which is done by a person who is bound by law to do it."

7. Every expression which is explained in any part of this Code is used in every part of this Code in conformity with the explanation.



8. The pronoun "he" and its derivatives are used of any person, whether male or female.
- Gender
9. Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.
- Number
10. The word "man" denotes a male human being of any age: the word "woman" denotes a female human being of any age.
- "Man"  
"Woman"
11. The word "person" includes any corporation or association, or body of persons, whether incorporated or not.
- "Person"
12. The word "public" includes any class of the public or any community.
- "Public"
13. The word "Queen" denotes the Sovereign for the time being of the United Kingdom of Great Britain and Ireland.
- "Queen"
14. The words "servants of the Queen" denote the "Servants of the officers or servants continued by or under the authority of the said Statute 21 and 22 Victoria, chapter 106, entitled "An Act for the Better Government of India," or by or under the authority of the Government of India or any Government.
- "Servants of the Queen"
15. The words "British India" denote the territories which are or may become vested in Her Majesty by the said Statute 21 and 22 Victoria, chapter 106, entitled "An Act for the Better Government of India."
- "British India."

16. The words "Government of India" denote "Government of the Governor-General of India India" in Council, or, during the absence of the Governor-General of India from his Council, the President in Council, or the Governor-General of India alone, as regards the powers which may be lawfully exercised by them or him, respectively

17. The word "Government" denotes the person or persons authorized by law to administer executive government in any part of British India.

18. The word "Presidency" denotes the territories subject to the Government of a Presidency.

19. The word "Judge" denotes, not only every person who is officially designated as a Judge, but also every person—

who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or

who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

### *Illustrations.*

A Collector exercising jurisdiction in a suit under Act X of 1859 is a Judge

A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment with or without appeal, is a Judge

A member of a panchayat which has power, under Regulation VII., 1816, of the Madras Code, to try and determine suits, is a Judge.

A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court is not a Judge.

20. The words "Court of Justice" denote a  
 "Court of Justice" Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

*Illustration.*

A panchayat acting under Regulation VII, 1816, of the Madras Code, having power to try and determine suits, is a Court of Justice.

21. The words "public servant" denote a person falling under any of the descriptions hereinafter following, namely :—

✓ *First.*—Every covenanted servant of the Queen ;

*Second.*—Every commissioned officer in the military or naval force of the Queen while serving under the Government of India or any Government ;

*Third.*—Every Judge ;

*Fourth.*—Every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties ;

*Fifth.*—Every juryman, assessor, or member of a panchayat assisting a Court of Justice or public servant ;

*Sixth.*—Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority ;

*Seventh.*—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement ;

*Eighth.*—Every officer of Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety, or convenience ;

*Ninth.*—Every officer whose duty it is, as such officer, to take, receive, keep, or expend any property on behalf of Government, or to make any survey, assessment, or contract on behalf of Government, or to execute any revenue-process, or to investigate, or to report on any matter affecting the pecuniary interests of Government, or to make, authenticate, or keep any document relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every officer in the service or pay of Government, or remunerated by fees or commission for the performance of any public duty ;

*Tenth.*—Every officer whose duty it is, as such officer, to take, receive, keep, or expend any property, to make any survey or assessment, or to levy any rate or tax for any secular common purpose of any village, town, or district, or to make, authenti-

cate, or keep any document for the ascertaining of the rights of the people of any village, town, or district.

### *Illustration.*

A Municipal Commissioner is a public servant.

*Explanation 1.*—Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

*Explanation 2.*—Wherever the words “public servant” occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

22. The words “moveable property” are intended to include corporeal property of every description, except land and things attached to the earth, or permanently fastened to anything which is attached to the earth.

23. “Wrongful gain” is gain by unlawful means of property to which the person gaining it is not legally entitled.

“Wrongful loss” is the loss by unlawful means of property to which the person losing it is legally entitled.

A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

24. Whoever does anything with the intention of causing wrongful gain to one person, or wrongful loss to another person, is said to do that thing "dishonestly."

25. A person is said to do a thing fraudulently if he does that thing with intent to defraud, but not otherwise.

26. A person is said to have "reason to believe" a thing if he has sufficient cause to believe that thing, but not otherwise.

27. When property is in the possession of a person's wife, clerk, or servant, on account of that person, it is in that person's possession within the meaning of this Code.

*Explanation.*—A person employed temporarily or on a particular occasion, in the capacity of a clerk or servant, is a clerk or servant within the meaning of this section.

28. A person is said to "counterfeit" who causes one thing to resemble another thing, intending, by means of that resemblance, to practice deception, or knowing it to be likely that deception will thereby be practised.

*Explanation 1.*—It is not essential to counterfeiting that the imitation should be exact.

*Explanation 2* —When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the persons so causing the one thing to resemble the other thing intended, by means of that resemblance, to

practise deception, or know it to be likely that deception would thereby be practised.

29. The word "document" denotes any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of those means intended to be used, or which may be used, as evidence of that matter.

*Explanation 1.*—It is immaterial by what means or upon what substance, the letters, figures, or marks are formed, or whether the evidence is intended to be used, or may be used in, a Court of Justice or not.

#### *Illustrations.*

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

A cheque upon a banker is a document.

A power-of-attorney is a document.

A map or plan which is intended to be used, or which may be used, as evidence, is a document.

A writing containing directions or instructions is a document.

*Explanation 2.*—Whatever is expressed by means of letters, figures, or marks, as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures, or marks within the meaning of this section, although the same may not be actually expressed.

#### *Illustrations.*

A writes his name on the back of a bill of exchange payable to his order. The signature is a document as it is written on the bill.

A writes his name on the back of a bill of exchange payable to his order. The signature is a document as it is written on the bill.

signature.

30. The words "valuable security" denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished, or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right.

*Illustration.*

A writes his name on the back of a bill of exchange. As the effect of this endorsement is to transfer the right to the bill to any person who may become the lawful holder of it, the endorsement is a "valuable security."

31. The words "a will" denote any testamentary document.

32. In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

33. The word "act" denotes as well a series of acts as a single act; the word "omission" denotes as well a series of omissions as a single omission.

34. Acts done by persons in common law act in the same manner as if it were done by him alone.

35. Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins



in the act with such knowledge or intention is just for the act in the same manner as if the act were done by him alone with that knowledge or intention.

36. Whenever the causing of a certain effect, or an attempt to cause that effect, by act and partly by an act or by an omission, by omission an offence, it is to be understood that the causing of that effect, partly by an act, and partly by an omission, is the same offence.

#### *Illustration.*

A intentionally causes Z's death, partly by neglect, omitting to give Z food, and partly by beating Z. A has committed murder.

37. When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly, or jointly with any other person, commits that offence.

#### *Illustrations.*

(a) A and B agree to murder Z by severally, and at different times, giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effects of the several doses of poison so administered to him. Here A and B intentionally co-operate in the commission of murder, and as each of them does an act by which the death is caused, they are both guilty of the offence, though their acts are separate.

(b) A and B are joint jailors, and, as such, have the charge of Z, a prisoner, alternately for six hours at a time. A and B intending to cause Z's death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of the murder of Z.

A did not co-operate with B, A is guilty only of an attempt to commit murder.

38. Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

*Illustration.*

A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B, having ill-will towards Z, subject to A and guilty of

39. A person is said to cause an effect "voluntarily" when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

*Illustration.*

A sets fire, by night, to an inhabited house in a large town for the purpose of facilitating a robbery, and thus causes the death of a person. Here A may not have intended to cause death, and may even be sorry that death has been caused by his act, yet, if he knew that he was likely to cause death, he has caused death voluntarily ;

40. Except in the chapter and sections mentioned in clauses two and three of this section, the word "offence" denotes a thing made punishable by this Code.

In Chapter IV., and in the following sections, namely, sections 64, 65, 66, 67, 71, 103, 110, 112, 114, 115, 116, 117, 187, 194, 195, 203, 211, 212, 214, 221, 222, 223, 224, 225, 327, 328, 329, 331, 331, 347, 348, 388, 389, and 445, the word "offence" denotes a thing punishable under this Code, or under any special or local law as hereinafter defined:

And in sections 141, 176, 177, 201, 202, 212, 214, and 441, the word "offence" has the same meaning when the thing punishable under the special or local law is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine.

41. A "special law" is a law applicable to a particular subject.

42. A "local law" is a law applicable only to a particular part of British India.

43. The word "illegal" is applicable to every thing which is an offence, or which is prohibited by law, or which furnishes ground for a civil action; and a person is said to be "legally bound to do" whatever it is illegal in him to omit to do.

44. The word "injury" denotes any harm whatever illegally caused to any person in body, mind, reputation or property.

45. The word "life" denotes the life of a human being, unless the contrary appears from the context.

46. The word "death" denotes the death of a human being, unless the contrary appears from the context.  
 "Death."
47. The word "animal" denotes any living creature other than a human being.  
 "Animal."
48. The word "vessel" denotes anything made for the conveyance by water of human beings or of property.  
 "Vessel"
49. Wherever the word "year" or the word "month" is used, it is to be understood that the year or the month is to be reckoned according to the British calendar.  
 "Year." "Month."
50. The word "section" denotes one of those portions of a chapter of this Code which are distinguished by prefixed numeral figures.  
 "Section."
51. The word "oath" includes a solemn affirmation substituted by law for an oath, and any declaration required or authorized by law to be made before a public servant, or to be used for the purpose of proof, whether in a Court of Justice or not.  
 "Oath."
52. Nothing is said to be done or believed in good faith which is done or believed without due care and attention.  
 "Good faith"

### CHAPTER III.

#### OF PUNISHMENTS.

53. The punishments to which offenders are liable under the provisions of this Code are—  
 "Punishment"

*First*—Death ;

*Secondly*—Transportation ;

*Thirdly*—Penal servitude ;

*Fourthly*—Imprisonment, which is of two descriptions, namely :—

(1) Rigorous, that is, with hard labour ;

(2) Simple ;

*Fifthly*—Forfeiture of property ;

*Sixthly*—Fine.

7. *XXIV of 1855.*

54. In every case in which sentence of death shall have been passed, the Government of India or the Government of the place within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for any other punishment provided by this Code.

55. In every case in which sentence of transportation for life shall have been passed, the Government of India or the Government of the place with which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years.

56. Whenever any person, being a European or American, is convicted of an offence punishable under this Code with transportation, the Court shall sentence the offender to penal servitude, instead of transportation, according to the provisions of Act XXIV. of 1855 :

Provided that, where a European or American offender would, but for such act, be liable to be sentenced or ordered to be transported for a term exceeding ten years, but not for life, he shall be liable to be sentenced or ordered to be kept in penal servitude for such term exceeding six years as to the Court seems fit, but not for life.

57. In calculating fractions of terms of punishment, transportation for life shall be reckoned as equivalent to transportation for twenty years.

58. In every case in which a sentence of transportation is passed, the offender, until he is transported, shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be held to have been undergoing his sentence of transportation during the term of his imprisonment.

59. In every case in which an offender is punishable with imprisonment for a term of seven years or upwards, it shall be competent to the Court which sentences such offender, instead of awarding sentence of imprisonment, to sentence the offender to transportation for a term not less than seven years, and not exceeding the term for which by this Code such offender is liable to imprisonment.

60. In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that

such imprisonment shall be wholly rigorous, or to such imprisonment shall be wholly simple, or to any part of such imprisonment shall be rigorous as the rest simple.

61. In every case in which a person is convicted of an offence for which he is liable to forfeiture of all his property, the offender shall be incapable of acquiring any property, except for the benefit of Government, until he shall have undergone the punishment awarded or the punishment to which it shall have been commuted, or until he shall have been pardoned.

#### *Illustration.*

A, being convicted of waging war against the Government of India, is liable to forfeiture of all his property. After the sentence, and whilst the same is in force A's father dies, leaving an estate which, but for the forfeiture, would become the property of A. The estate becomes the property of Government.

62. Whenever any person is convicted of an offence punishable with death, the Court may adjudge that all his property, moveable and immoveable, shall be forfeited to Government; and whenever any person shall be convicted of any offence for which he shall be transported or sentenced to imprisonment for a term of seven years or upwards, the Court may adjudge that the rents and profits of all his moveable and immoveable estate, during the period of his transportation or imprisonment, shall be forfeited to Government, subject to such provision for his family and dependants as the Government may think fit to allow during such period.

1. Where no sum is expressed to which a fine  
 amount of fine, may extend, the amount of fine  
 to which the offender is liable  
 limited, but shall not be excessive.

2. In every case of an offence punishable  
 with imprisonment as well as  
 fine, in which the offender is  
 sentenced to a fine, whether, with  
 or without imprisonment ;

and in every case of an offence punishable with  
 imprisonment or fine ; or with fine only, in which  
 offender is sentenced to a fine :

the Court shall be competent to the Court which sentences  
 such offender to direct by the sentence that, in  
 default of payment of the fine, the offender shall  
 suffer imprisonment for a certain term, which im-  
 prisonment shall be in excess of any other imprison-  
 ment to which he may have been sentenced, or to  
 which he may be liable under a commutation of a  
 sentence

65. The term for which the Court directs the  
 offender to be imprisoned in de-  
 fault of payment of a fine shall  
 not exceed one-fourth of the  
 term of imprisonment  
 to which the offender is liable  
 in default of payment of a fine  
 and the maximum term for which  
 the offender is liable in default of  
 payment of a fine shall not exceed  
 the maximum term for which the  
 offender is liable in default of  
 payment of a fine

66. The imprisonment which the Court imposes  
 in default of payment of a fine  
 may be of any description to  
 which the offender might have  
 been sentenced for the offence.



**67.** If the offence be punishable with fine only, the imprisonment which the Court imposes in default of payment of the fine shall be simple and the term for which the Court directs the offender to be imprisoned in default of payment of fine shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees and for any term not exceeding six months in any other case.

**68.** The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

**69.** If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportionate to the part of the fine still unpaid, the imprisonment shall terminate.

#### *Illustrations.*

A is sentenced to a fine of one hundred rupees, and to four months' imprisonment in default of payment. If seventy-five rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired. If seventy-five rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged. If fifty rupees of the fine be paid or levied

ore the expiration of two months of the imprisonment, will be discharged as soon as the two months are completed. If fifty rupees be paid or levied at the time the expiration of those two months, or at any later time the A continues in imprisonment, A will be immediately charged.

70. The fine or any part thereof which remains unpaid may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period than six years, then any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property which he could, after his death, be legally liable for his debts.

71. Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such offences, unless it be so expressly provided.

Where anything is an offence falling within two or more separate definitions of any law in force at the time being by which offences are defined or punished, or

“where several acts, of which one or more than one would, by itself or themselves, constitute an offence, constitute, when combined, a different offence.

“the offender shall not be punished with a more severe punishment than the Court which tries him could award for any one of such offences.

*Illustrations.*

(a) A gives Z fifty blows with a stick. Here A is causing hurt to each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned fifty years, one for each blow. But he is liable only to punishment for the whole beating.

(b) But if, while A is beating Z, Y interferes, and intentionally strikes Y, here, as the blow given to Y is part of the act whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z, and to another for the blow given to Y.

72. In all cases in which judgment is given that a person is guilty of one or several offences specified in the judgment, but that it is doubtful of which of those offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided if the same punishment is not provided for a).  
Punishment of person guilty of one of several offences, the judgment stating that it is doubtful of which of those offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided if the same punishment is not provided for a).

73. Whenever any person is convicted of an offence for which, under this Code, the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say:—

a time not exceeding one month if the term of imprisonment shall not exceed six months;

a time not exceeding two months if the term of imprisonment shall exceed six months, and shall not exceed one year;

a time not exceeding three months if the term of imprisonment shall exceed one year.

74. In executing a sentence of solitary confinement, such confinement shall, in no case, exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods; and when the imprisonment awarded shall exceed three months, the solitary confinement awarded shall not exceed seven days, in any one month, the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

75. Whoever, having been convicted of an offence punishable under Chapter XII. or Chapter XVII. of this Code with imprisonment of either description for a term of three years or upwards, shall be guilty of any offence punishable under either of those chapters with imprisonment of either description for a term of three years or upwards, shall be subject for every such subsequent offence to transportation for life, or to imprisonment of either description for a term which may extend to ten years.

## CHAPTER IV.

### GENERAL EXCEPTIONS.

76. Nothing is an offence which is done by a person who is, or who, by reason of a mistake of fact, and not by reason of a mistake of law, in good faith believes himself to be, bound by law to do it.

*Illustrations*

(a) A, a soldier, fires on a mob by the order of his superior officer in conformity with the commands of the law. A has committed no offence.

(b) A, an officer of a Court of Justice, being authorized by that Court to arrest Y, and, after due enquiry, finding Z to be Y, arrests Z. A has committed no offence.

77. Nothing is an offence which is done by an Act of Judge when Judge when acting judicially the exercise of any power which is, or which in good faith he believes to be, given to him by law.

78. Nothing which is done in pursuance of, or which is warranted by, the judgment or order of a Court of Justice, if done whilst such judgment or order remains in force, notwithstanding that the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

79. Nothing is an offence which is done by a person justified, or by mistake of fact believing himself justified, by law, or who, by reason of a mistake of fact, and not by reason of a mistake of law, in good faith believes himself to be justified by law, in doing it.

*Illustration.*

A sees Z commit what appears to A to be a murder in the exercise, to the best of his judgment exerted in good faith, of the power which the law gives to all persons apprehending murderers in the fact, seizes Z in order to bring him before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

80. Nothing is an offence which is done by accident in doing an accident or misfortune, and without any criminal intention or knowledge, in the doing of a lawful act in a lawful manner by lawful means, and with proper care and attention,

*Illustration.*

A is at work with a hatchet, the head flies off, and kills a man who is standing by. Here, if there was no want of proper caution on the part of A, his act is excusable, and is not an offence.

81. Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property.

*Explanation.*—It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

*Illustration*

While A is running his boat, he must incur risk of running down a boat, C, with only two passengers on board, which he may possibly clear. Here, if A alters his course without any intention to run down the boat C, and in good faith for the purpose of avoiding the danger to the passengers in the boat

B, he is not guilty of an offence, though he may run down the boat C by doing an act which he knew was likely to cause that effect, if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk running down C.

(b) A, in a great fire, pulls down houses in order to prevent the conflagration from spreading. He does so with the intention, in good faith, of saving human life and property. Here, if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act, A is not guilty of the offence.

82. Nothing is an offence which is done by a

Act of a child under seven years of age

child under seven years of age

83. Nothing is an offence which is done by a

Act of a child, above 7 and under 12, of immature understanding

child above seven years of age and under twelve, who has not attained sufficient maturity of

understanding to judge of the nature and consequences of his conduct on that occasion.

84. Nothing is an offence which is done by a

Act of a person of unsound mind

person who, at the time of doing it, by reason of unsoundness

of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

85. Nothing is an offence which is done by a

Act of a person incapable of judgment by reason of intoxication caused against his will.

person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary

to law: provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

**86.** In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge, or against his will.

**87.** Nothing which is not intended to cause death or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person above eighteen years of age, who has given consent, whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

*Illustration.*

A and Z agree to fence with each other for amusement. This agreement implies the consent of each to suffer any harm which, in the course of such fencing, may be caused without foul play, and if A while playing fairly hurts Z, A commits no offence.

**88.** Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit



it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

### *Illustration.*

A, a surgeon knowing that a particular operation is likely to cause the death of Z, who suffers under a painful complaint, but not intending to cause Z's death, and intending in good faith, Z's benefit, performs that operation on Z with Z's consent. A has committed no offence.

89. Nothing, which is done in good faith in the benefit of a person under twelve years of age, or of unsound mind, by or by consent of guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause to that person.

*PROVIDES*

*Provided—*

*Firstly.*—That this exception shall not extend to the intentional causing of death, or to the attempting to cause death.

*Secondly.*—That this exception shall not extend to the doing of any thing which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

*Thirdly.*—That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity;

*Fourthly.*—That this exception shall not extend the abatement of any offence, to the committing of which offence it would not extend.

*Illustration.*

A, in good faith, for his child's benefit, without his child's consent, has his child cut for the stone by a surgeon, knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death within the exception, inasmuch as his object was the cure of the child.

**90** A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear of injury, or under misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent is given in consequence of such fear or misconception ; or

if the consent is given by a person who, from unsoundness of mind or intoxication, is unable to understand the nature and consequence of that to which he gives his consent ; or,

unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

**91.** The exceptions in sections 87 and 88, and 89, do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given.

*Illustration*

ed to cause, to the woman. Therefore it is not an offence "by reason of such harm," and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act.

92. Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and there is no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit :

*Provided—*

*Provided—*

*First*—That this exception shall not extend to the intentional causing of death, or the attempting to cause death ;

*Secondly*—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death for any purpose other than the preventing of death, or grievous hurt, or the curing of any grievous disease or infirmity ;

*Thirdly*—That this exception shall not extend to the voluntary causing of hurt or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt ;

*Fourthly*—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

*Illustrations.*

(a) Z is thrown from his horse, and is insensible. A, a surgeon, finds that Z requires to be trepanned. A, not intending Z's death, but in good faith, for Z's benefit, performs the trepan before Z recovers his power of judging for himself. A has committed no offence.

(b) Z is carried off by a tiger. A fires at the tiger, knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z's benefit. A's ball gives Z a mortal wound. A has committed no offence.

(c) A, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. The child's father, who is the guardian of the child, is not present. A, in good faith, performs the operation. A has committed no offence.

(d) A is in a house which is on fire, with Z, a child. People below hold out a blanket. A drops the child from the house-top, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here, even if the child is killed by the fall, A has committed no offence.

*Explanation*—Here pecuniary benefit is not benefit within the meaning of sections 88, 89, and 92.

93. No communication made in good faith is an offence by reason of any harm to the person to whom it is made for the benefit of that person.

*Illustration.*

A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

94. Except murder and offences against the State, punishable with death, a

Act to which a person is compelled by threats, thing is an offence which is done by a person who is compelled to do it by threats, which at the time or doing it reasonably cause the apprehension that instant death to that person will otherwise be the, consequently, provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint

*Explanation 1.*—A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception, on the ground of having been compelled by his associates to do anything that is an offence by law.

*Explanation 2.*—A person seized by a gang of dacoits, and forced, by threat of instant death, to do a thing which is an offence by law, for example, a smith compelled to take his tools, and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception.

95. Nothing is an offence by reason that it

Act causing slight harm causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

### *Of the Right of Private Defence.*

Things done in private defence

96. Nothing is an offence which is done in the exercise of the right of private defence.

right of private defence of the body and property.

97. Every person has a right, subject to the restrictions contained in section 99, to defend—

*First.*—His own body and the body of any other on against any offence affecting the human body ;

*Secondly.*—The property, whether movable or immoveable, of himself or of any other person, against an act which is an offence falling under the definition of theft, robbery, mischief, or criminal trespass, or which is an attempt to commit theft, robbery, mischief, or criminal trespass.

98. When an act, which would otherwise be a certain offence, is not that offence by reason of the youth, the want of maturity of understanding, the unsoundness of mind, or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

#### *Illustrations.*

(a) Z, under the influence of madness, attempts to kill A. Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.

(b) A enters by night a house which he is legally entitled to enter. Z, the owner, attacks A. A has the same right of private defence which he would have if Z were not acting under that misconception.

99. There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt if done against which there is no right of private defence.

or attempted to be done by a public servant acting in good faith under colour of his office, though the act may not be strictly justifiable by law.

There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt if done or attempted to be done by the direction of a public servant acting in good faith under colour of his office though that direction may not be strictly justifiable by law.

There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

*Explanation 1*—A person is not deprived of the right of private defence against an act done or attempted to be done by a public servant, ~~in such~~ unless he knows or has reason to believe that the person doing the act is such public servant.

*Explanation 2*.—A person is not deprived of the right of private defence against an act done or attempted to be done by the direction of a public servant unless he knows or has reason to believe that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or, if he has authority in writing, unless he produces such authority if demanded.

100. The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death, or of any other harm.

When the right of private defence of the body extends to causing death

to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely :—

*First.*—Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault ;

*Secondly.*—Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault ;

*Thirdly* —An assault with the intention of committing rape ;

*Fourthly.*—An assault with the intention of gratifying unnatural lust ,

*Fifthly* —An assault with the intention of kidnapping or abducting ;

*Sixthly.*—An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

101. If the offence be not of any of the des-

criptions enumerated in the last section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in section 99, to the voluntary causing to the assailant of any harm other than death.

102 The right of private defence of the body

commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence, and continues as long as that apprehension continues.



though the offence may not have been committed and it continues as long as such apprehended danger to the body continues.

### 103 The right of private defence of property

When the right of private defence of property extends to causing death

extends, under the restriction mentioned in section 99, to the voluntary causing of death, or of any other harm to the wrongdoer, if the offence, the committing of which, or attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely:—

doer, if the offence, the committing of which, or attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely:—

*First.*—Robbery;

*Secondly.*—House-breaking by night;

*Thirdly.*—Mischief by fire committed on a building, tent, or vessel, which building, tent, or vessel is used as a human dwelling or as a place for the custody of property;

*Fourthly.*—Theft, mischief, or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is exercised.

### 104.

When such

tends to cause harm other than death

of private defence, in the case of theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding section, the right does not extend to the voluntary causing of death, but does extend, subject to the restriction mentioned in section 99, to the voluntary causing of the wrong-doer of any harm other than death.

Commencement and continuance of the right of private defence of property.

105. The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

The right of private defence of property against theft continues till the offender has effected his retreat with the property, or either the assistance of the public authorities is obtained, or the property has been recovered.

The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint, or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.

The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

The right of private defence of property against house-breaking by night continues as long as the house-trespass which has been begun by such house-breaking continues.

106. If, in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

#### *Illustration.*

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence

without firing on the mob, and he cannot fire without  
 of harming young children who are mingled with them.  
 A commits no offence if, by so firing, he harms any of  
 children.

## CHAPTER V. OF ABETMENT.

Abetment of a thing. 107. A person abets the  
 doing of a thing who—

*First* —Instigates any person to do that thing;

*Secondly* —Engages with one or more other  
 person or persons in any conspiracy for the doing  
 of that thing, if an act or illegal omission takes place  
 in pursuance of that conspiracy, and in order to  
 the doing of that thing; or,

*Thirdly*. —Intentionally aids, by any act or  
 omission, the doing of that thing.

*Explanation 1.* —A person who, by wilful  
 misrepresentation, or by wilful concealment of a material  
 fact which he is bound to disclose, voluntarily causes  
 or procures, or attempts to cause or procure, a thing  
 to be done, is said to instigate the doing of that  
 thing.

### *Illustration.*

A, a public officer, is authorized by a warrant from  
 the Court of Justice to apprehend Z. B, knowing that Z  
 is not Z, and also that C is not Z, wilfully represents to A that  
 C is Z and thereby intentionally causes A to apprehend  
 C. Here B abets by instigation the apprehension of C.

*Explanation 2.* —Whoever, either prior to, or  
 at the time of, the commission of an act, does anything  
 in order to facilitate the commission of that act, and  
 thereby facilitates the commission thereof, is said  
 to aid the doing of that act.

108. A person abets an offence who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence, with the same intention or knowledge as that of the abettor.

*Explanation 1*—The abetment of the illegal commission of an act may amount to an offence, although the abettor may not himself be bound to do that act.

*Explanation 2*—To constitute the offence of abetment, it is not necessary that the act abetted should be committed or that the effect requisite to constitute the offence should be caused.

*Illustrations*

(a) A instigates B to murder C. B refuses to do so. A is guilty of instigating B to commit murder.  
 (b) A instigates B to murder C. B, in pursuance of the instigation, wounds C. A is guilty of instigating B to commit murder, though C does not die.

*Explanation 3*—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

*Illustrations.*

(a) A, with a guilty intention abets a child or a lunatic to commit an act which would be an offence if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(b) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the

act in the absence of A, and thereby causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is, therefore, subject to the punishment of death.

(c) A instigates B to set fire to a dwelling-house. As a consequence of the unsoundness of his mind, being unable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house as a consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling house, and is liable to the punishment provided for that offence.

(d) A, intending to cause a theft to be committed, instigates B to do so. B, however, is not of Z's property, and does not commit theft. But A is guilty of abetting the offence, and is liable to the same punishment as if B had committed the theft.

*Explanation 4.*—The abetment of an offence by an offender, the abetment of such an abetment is also an offence.

### Illustration.

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence. A is liable to be punished for abetting the murder; and B is also liable to the same punishment.

*Explanation 5.*—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he

the conspiracy in pursuance of which the offence was committed.

*Illustration*

A conspires with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C, mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. B administers the poison. Z dies in consequence. Here, although A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has, therefore, committed the offence defined in this section, and is liable to the punishment for abetment.

**108A.** A person abets an offence within the meaning of this Code who, in British India, abets the commission of any act without and beyond British India which would constitute an offence committed in British India.

*Illustration.*

A, in British India, instigates B, a foreigner in Goa, to commit a murder in Goa. A is guilty of abetting the murder.

**109.** Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

*Explanation* — An act or offence is said to be committed in consequence of abetment when it is committed in consequence of the instigation, or in

pursuance of the conspiracy, or with the aid of  
constitutes the abettor. (C)

### Illustrations.

(a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in section 161.

(a) A instigates B to give false evidence. B in consequence of the instigation, commits that offence guilty of abetting that offence, and is liable to the same punishment as B.

(c) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison, and delivers it to B in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in Z's absence and thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

110. Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other

Punishment of abettor if person abetted does act with different intention from that of abettor

111. When an act is abetted, and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it:

Liability of abettor when one act abetted, and different act done

Provided the act done was a probable consequence of the abetment, and was committed under the influence of the abettor

Provided

the instigation, or with the aid, or in pursuance of the conspiracy which constituted the abetment.

*Illustrations.*

(a) A instigates B to put poison into the food of Y, and B does so. The child was acting under the influence of A's instigation, and the act done was, under the circumstances, a probable consequence of the abetment, A is liable in the same manner, and to the same extent, as if he had instigated the child to put the poison into the food of Y.

(b) A instigates B to burn Z's house. B sets fire to the house and at the same time commits theft of property there. A, though guilty of abetting the burning of the house, is not guilty of abetting the theft, for the theft is a distinct act, and not a probable consequence of the burning.

(c) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose. B and C break into the house, and, being resisted by Z one of the inmates, murder him. Here, if the murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

112. If the act for which the abettor is liable under the last preceding section is committed in addition to the act abetted, and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

*Illustration*

A instigates B to resist by force a distress made by a public servant. B, in consequence, resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer executing the distress. As B has committed both the offence of resisting the distress and the offence of voluntarily causing grievous hurt, B is liable to



punishment for both these offences; and, if A knew that B was likely voluntarily to cause grievous hurt in respect of the distress, A will also be liable to punishment for each of the offences.

### 113. When an act is abetted with the intent on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment causes a different effect from that intended by the abettor, the abettor is liable for the effect caused in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect; provided he knew that the act abetted was likely to cause that effect.

Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.

on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment causes a different effect from that intended by the abettor, the abettor is liable for the effect caused in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect; provided he knew that the act abetted was likely to cause that effect.

from that intended by the abettor, the abettor is liable for the effect caused in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect; provided he knew that the act abetted was likely to cause that effect.

#### Illustration.

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder.

114. Whenever any person, who, if absent, would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

Abettor present when offence is committed

be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

### 115. Whoever abets the commission of an offence punishable with death or transportation for life shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment

Abetment of offence punishable with death or transportation for life—  
if offence not committed

by this Code for the punishment of such abetment

unished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall be liable to fine.

*Illustration.*

A instigates B to murder Z. The offence is not committed. If B had murdered Z, he would have been subject to the punishment of death or transportation for life, and A is liable to imprisonment for a term which may extend to seven years, and also to a fine, and if any offence is done to Z in consequence of the abetment, he will be liable to imprisonment for a term which may extend to seven years, and to fine.

**116** Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence for a term which may extend to one-fourth part of the longest term provided for that offence, or with such fine as is provided for that offence, or with both ;

and, if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence for a term

which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

### *Illustrations.*

(a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B refuses to accept the bribe. A is punishable under this section.

(b) A instigates B to give false evidence. Here, if B does not give false evidence A has nevertheless committed the offence defined in this section, and is punishable accordingly.

(c) A instigates B to prevent a robbery. Here, if B prevents the robbery, A is punishable for abetting the offence.

and also to fine

(d) B abets the commission of a robbery by A, a police officer whose duty it is to prevent that offence. Here, though the robbery be not committed, B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

117. Whoever abets the commission of any offence by the public generally, or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

### *Illustration.*

A affixes in a public place a placard, instigating a sect consisting of more than ten members, to meet at a certain time and place for the purpose of attacking the members of an adverse sect while engaged in a procession. A has committed the offence defined in this section.

118. Whoever, intending to facilitate, or knowing it to be likely that he will thereby facilitate, the commission of an offence punishable with death or transportation for life—

Concealing design to commit offence punishable with death or transportation for life—

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design,

shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years; or, if the offence be not committed, with imprisonment of either description for a term which may extend to three years; and in either case shall also be liable to fine.

*Illustration.*

in pursuance of the design A is punishable under this section

119. Whoever, being a public servant, intending to facilitate, or knowing it to be likely that he will thereby facilitate, the commission of an offence, which it is his duty as such public servant to prevent,

Public servant concealing design to commit offence which it is his duty to prevent—

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence,

or makes any representation which he knows to be false respecting such design,

shall, if the offence be committed, be punished if offence be committed with imprisonment of any description provided for the offence for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both ;

or, if the offence be punishable with death or if offence be punishable with death, &c. transportation for life, with imprisonment of either description for a term which may extend to ten years ;

or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence for a term which may extend to one-fourth part of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both

### *Illustration.*

A, an officer of police, being legally bound to give information of all designs to commit robbery which may come to his knowledge, and knowing that B designs to commit robbery, omits to give such information, with intent to facilitate the commission of that offence. Here A has, by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provision of this section

Concealing design to commit offence punishable with imprisonment—

punishable with imprisonment,

120 Whoever, intending to facilitate, or knowing it to be likely that he will thereby facilitate, the commission of an offence, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence,

makes any representation which he knows to be  
so respecting such design,

shall, if the offence be committed, be punished  
if offence be com- with imprisonment of the descrip-  
mitted; tion provided for the offence  
a term which may extend to one-fourth, and, if  
if offence be not the offence be not committed, to  
mitted one-eighth, of the longest term  
such imprisonment, or with such fine as is provid-  
for the offence, or with both

## CHAPTER VI.

### OF OFFENCES AGAINST THE STATE.

121 Whoever wages war against the Queen, or  
Waging or attempt- attempts to wage such war, or  
to wage war, or abets the waging of such war,  
stting waging of war shall be punished with death or  
against the Queen transportation for life, and shall  
forfeit all his property.

#### *Illustrations*

(a) A joins an insurrection against the Queen. A has  
committed the offence defined in this section

(b) A in India abets insurrection against the Queen's  
Government of Ceylon by sending arms to the insurgents  
is guilty of abetting the waging of war against the Queen.

121A. Whoever, within or without British India,  
Conspiracy to com-  
mit offences punish-  
able by section 121

is sovereign of B  
; or conspires to overawe, by means of criminal  
force or the show of criminal force, the Government  
of India or any Local Government, shall be punished

with transportation for life or any shorter term or with imprisonment of either description which may extend to ten years.

*Explanation.*—To constitute a conspiracy under this section, it is not necessary that any act or illegal omission shall take place in pursuance thereof.

122. Whoever collects men, arms, or ammunition, or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against the Queen, shall be punished with transportation for life or imprisonment of either description for a term not exceeding ten years, and shall forfeit all his property.

123. Whoever, by any act or by any illegal omission, conceals the existence of a design to wage war against the Queen, intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate, the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

124. Whoever, with the intention of inducing or compelling the Governor-General of India, or the Governor of any presidency, or a Lieutenant-Governor, or a Member of the Council of the Governor-General of India or of the Council of any presidency, to exercise or refrain from exercising in any manner any of the lawful powers of such Governor-General, Governor, Lieutenant-Governor, or Member of Council,

assaults or wrongfully restrains, or attempts wrongfully to restrain, or overawes, by means of criminal force or the show of criminal force, or attempts so to overawe, such Governor-General, Governor, Lieutenant-Governor, or Member of Council,

shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

124A. Whoever by words, either spoken or written or by signs or by visible representation or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, Her Majesty or the Government established by law in British India, shall be punished with transportation for life or any shorter term, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

*Explanation 1.*—The expression "disaffection" includes disloyalty and all feelings of enmity.

*Explanation 2* —Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt, or disaffection, do not constitute an offence under this section.

*Explanation 3.*—Comments expressing disapprobation of the administrative or other action of the Government, without exciting or attempting to excite hatred, contempt, or disaffection, do not constitute an offence under this section.



# 125. Whoever wages war against the Government of any Asiatic Power

Waging war against any Asiatic Power in alliance with the Queen.

alliance or at peace with the Queen, or attempts to wage war or abets the waging of

war, shall be punished with transportation for life to which fine may be added, or with imprisonment of either description for a term which may extend to seven years, to which fine may be added, or with fine.

# 126. Whoever commits depredation, or makes preparations to commit depredation, on the territories of any Asiatic Power at peace with the Queen

Committing depredation on territories of Power at peace with the Queen

preparations to commit depredation, on the territories of any Asiatic Power in alliance or at peace with the Queen, shall be punished

with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine, and to forfeiture of any property acquired in committing such depredation, or acquired by such depredation

# 127. Whoever receives any property, known to have been taken by war or depredation mentioned in sections 125 and 126

Receiving property taken by war or depredation mentioned in sections 125 and 126.

the same to have been taken by the commission of any of the offences mentioned in sections 125 and 126, shall be punished

with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine, and to forfeiture of the property so received.

# 128. Whoever, being a public servant, voluntarily allows a prisoner of state or war to escape

Public servant voluntarily allowing prisoner of state or war to escape

having the custody of any prisoner or prisoner of war, voluntarily allows such prisoner to escape from any place in which

such prisoner is confined, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine, and to forfeiture of any property

transportation for life or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

129. Whoever, being a public servant, and having the custody of any State prisoner or prisoner of war, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years, and shall also be liable to fine.

130. Whoever, knowingly aids or assists any State prisoner or prisoner of war in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers, or attempts to offer, any resistance to the recapture of such prisoner, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

*Explanation.*—A State prisoner or prisoner of war who is permitted to be at large on his parole within certain limits in British India is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

## CHAPTER VII

OF OFFENCES RELATING TO THE ARMY AND NAVY.

131. Whoever abets the committing of mutiny by an officer, soldier, or sailor in the army or navy of the Queen, or attempts to seduce any such officer, soldier, or sailor from his duty.

allegiance or his duty, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

*Explanation.*—In the section the words “*officer*” and “*soldier*” include any person subject to the Articles of War for the better government of His Majesty’s army, or to the Articles of War contained in Act No. V. of 1869.

**132** Whoever abets the committing of mutiny by an officer, soldier, or sailor in the army or navy of the Queen, shall, if mutiny be committed in consequence of that abetment, be punished with death or with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**133.** Whoever abets an assault by an officer, soldier, or sailor in the army or navy of the Queen on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**134.** Whoever abets an assault by an officer, soldier, or sailor in the army or navy of the Queen on any superior officer being in the execution of his office, shall, if such assault be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Whoever abets the desertion of any officer,  
 of deser- soldier, or sailor in the army or  
 or sailor. navy of the Queen, shall be pun-  
 h imprisonment of either description for a  
 ch may extend to two years, or with fine, or  
 1.

Whoever, except as hereinafter excepted,  
 ng desert- knowing, or having reason to be-  
 lieve, that an officer, soldier, or  
 the army or navy of the Queen has deserted,  
 such officer, soldier, or sailor, shall be pun-  
 th imprisonment of either description for a  
 ich may extend to two years, or with fine, or  
 h.

ption.—This provision does not extend to the  
 which the harbour is given by a wife to her

The master or person in charge of a mer-  
 concealed merchant- any deserter from the army or  
 merchant- any deserter from the army or  
 ough negli- navy of the Queen is concealed,  
 master shall, though ignorant of such  
 nent, be liable to a penalty not exceeding  
 dred rupees, if he might have known of such  
 nent, but for some neglect of his duty as such  
 or person in charge, or but for some want of  
 ie on board of the vessel

Whoever abets what he knows to be  
 out of act of  
 nation by  
 sailor navy of the Queen, shall, if such  
 nsubordination be committed in consequence  
 abetment, be punished with imprisonment of  
 lescription for a term which may extend to  
 ths, or with fine, or with both.

Application of foregoing section to the Indian Marine Service  
 138A. The provisions of this chapter shall apply to the Indian Marine Service as if Her Majesty's Marine Service were included in the navy of the Queen.

139. No person subject to any Article of War for the army or navy of the Queen, or for any part of the army or navy, is subject to punishment under the Code for any of the offences defined in this Chapter.

140. Whoever, not being a soldier in the army or naval service of the Queen, wears any garb or carries any token used by such a soldier with the intention that it may be believed that such a soldier, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

## CHAPTER VIII.

### OF OFFENCES AGAINST THE PUBLIC TRANQUILITY.

141. An assembly of five or more persons, convened for an unlawful purpose, shall be deemed to be an unlawful assembly, if the common object of the persons concerned in that assembly is—

First.—To overawe, by criminal force or by the show of criminal force, the Legislative or Executive Government of India, or the Government of any Province, or any Lieutenant-Governor, or any public servant; or

Second.—To resist the execution of any law or any legal process; or,

*Third*—To commit any mischief or criminal trespass or other offence ; or,

*Fourth*.—By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of land, or of other incorporeal right of which he is in possession or enjoyment, or to enforce any right or to compel the performance of any lawful duty ; or,

*Fifth*.—By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

*Explanation*—An assembly which was not unlawful when it assembled may subsequently become an unlawful assembly.

142. Whoever, being aware of facts which render an assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly.

143. Whoever is a member of an unlawful assembly shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

144. Whoever, being armed with any deadly weapon, or with anything which may be used as a weapon of offence, is likely to cause death is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

145. Whoever joins or continues in an unlawful assembly, knowing that such assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Joining or continuing in unlawful assembly, knowing it has been commanded to disperse

unlawful assembly, knowing that such assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of

either description for a term which may extend to two years, or with fine, or with both.

146. Whenever force or violence is used by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

Rioting

unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

147. Whoever is guilty of rioting shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for rioting

punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

which may extend to two years, or with fine, or with both.

148. Whoever is guilty of rioting, being armed with a deadly weapon, or with any thing which used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Rioting armed with deadly weapon

being armed with a deadly weapon, or with any thing which used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

on of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

149. If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly know to be likely to be committed in prosecution of that object, every person, who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

Every member of unlawful assembly guilty of offence committed in prosecution of common object

If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly know to be likely to be committed in prosecution of that object, every person, who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

prosecution of that object, every person, who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

**150.** Whoever hires, or engages, or employs, or promotes or connives at the hiring, or conniving hiring, of persons to unlawful assembly of any person to join or become member of any unlawful assembly, shall be punishable as a member of such unlawful assembly, and for offence which may be committed by any such person as a member of such unlawful assembly, in consequence of such hiring, engagement, or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

**151.** Whoever knowingly joins or continues in knowingly joining any assembly of five or more persons continuing in assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

*Explanation* —If the assembly is an unlawful assembly within the meaning of section 141, the offence will be punishable under section 145.

**152.** Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, or uses, or threatens or attempts to use, criminal force to such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.



**153.** Whoever maliciously or wantonly, or  
 Wantonly giving  
 provocation with in-  
 tent to cause riot—  
 likely that such provocation will cause the offence  
 rioting to be committed, shall, if the offence of ri-  
 otting be commit-  
 ted  
 if not committed,  
 ing be committed in con-  
 sequence of such provocation,  
 be punished with imprisonment of  
 either description for a term  
 which may extend to one year, or with fine, or with  
 both, and if the offence of rioting be not committed  
 with imprisonment of either description for a term  
 which may extend to six months, or with fine, or  
 with both

**153A** Whoever by words, either spoken or writ-  
 Promoting enmity  
 between classes  
 ten, or by signs, or by visible re-  
 presentations, or otherwise, pro-  
 motes or attempts to promote feelings of enmity or  
 hatred between different classes of Her Majesty's  
 subjects, shall be punished with imprisonment which  
 may extend to two years, or with fine, or with both.

*Explanation.*—It does not amount to an offence  
 within the meaning of this section to point out, with-  
 out malicious intention, and with an honest view to  
 their removal, matters which are producing, or have  
 a tendency to produce, feelings of enmity or hatred  
 between different classes of Her Majesty's subjects.

**154.** Whenever any unlawful assembly or riot  
 takes place, the owner or occupier  
 of the land upon which such un-  
 lawful assembly is held, or in  
 riot is committed, and any person  
 having or claiming an interest in such land, shall be

punishable with fine not exceeding one thousand  
 rupees ;

if he or his agent or manager, knowing that such  
 offence is being or has been committed, or having  
 reason to believe it is likely to be committed, do not  
 give the earliest notice thereof in his or their power  
 to the principal officer at the nearest police-station,

and do not in the case of his or their having reason  
 to believe that it was about to be committed, use  
 all lawful means in his or their power to prevent it,  
 and, in the event of its taking place, do not use all  
 lawful means in his or their power to disperse or  
 suppress the riot or unlawful assembly

155 Whenever a riot is committed for the  
 benefit or on behalf of any per-  
 son whose benefit a riot is committed  
 of any land respecting which  
 such riot takes place, or who claims any interest in  
 such land, or in the subject of any dispute which  
 gave rise to the riot, or who has accepted or derived  
 any benefit therefrom,

such person shall be punishable with fine, if he  
 or his agent or manager, having reason to believe  
 that such riot was likely to be committed, or that the  
 unlawful assembly by which such riot was committed  
 was likely to be held, shall not respectively use all  
 lawful means in his or their power to prevent such  
 assembly or riot from taking place, and for suppressing  
 and dispersing the same.

156. Whenever a riot is committed for the bene-  
 fit or on behalf of any person  
 who is the owner or occupier of  
 any land respecting which such  
 riot takes place, or who claims  
 Liability of agent of  
 owner or occupier for  
 whose benefit a riot is  
 committed.

any interest in such land, or in the subject of the dispute which gave rise to the riot, or who has accepted or deprived any benefit therefrom,

the agent or manager of such person shall be punishable with fine, if such agent or manager, being reason to believe that such riot was likely to be committed, or that the unlawful assembly to which such riot was committed was likely to be held, did not use all lawful means in his power to prevent such riot or assembly from taking place, and for suppressing and dispersing the same.

157 Whoever harbours, receives, or assists in any house or premises in his occupation or charge, or under his control, any persons, knowing

that such persons have been hired, engaged, or employed, or are about to be hired, engaged or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

158 Whoever is engaged or hired, or attempts to be hired or engaged, to do or assist in doing any of the acts specified in section 157, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both;

and whoever, being so engaged or hired as aforesaid, goes armed, or offers to go armed, with any deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description

a term which may extend to two years, or with  
, or with both.

159. When two or more persons, by fighting in a  
fray. public place, disturb the public  
peace, they are said to "commit  
affray."

160. Whoever commits an affray shall be punish-  
ment for com- ed with imprisonment of either  
ing affray description for a term which  
extend to one month or with fine which may  
and to one hundred rupees, or with both.

## CHAPTER IX.

### OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161 Whoever, being or expecting to be a public  
public servant tak- servant, accepts or obtains, or  
gratification other agrees to accept or attempts to  
legal remunera- obtain, from any person, for him-  
in respect of an self or for any other person, any  
act gratification whatever, other than  
legal remuneration, as a motive or reward for do-  
ing, or forbearing to do, any official act, or for show-  
ing, or forbearing to show, in the exercise of his  
official functions, favour or disfavour to any person  
for rendering, or attempting to render, any ser-  
vice or disservice to any person, with the Legislative  
Executive Government of India, or with the  
Government of any presidency, or with any Lieut-  
enant-Governor, or with any public servant, as such,  
all be punished with imprisonment of either des-  
cription for a term which may extend to three years,  
with fine, or with both.

*Explanation.*—"Expecting to be a public servant"—If a person not expecting to be in office obtains gratification by deceiving others into a belief that he is about to be in office, and that he will then be a public servant, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

"Gratification."—The word "gratification" is not restricted to pecuniary gratifications, or to gratifications estimable in money.

"Legal remuneration."—The words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government which he serves to accept.

"A motive or reward for doing."—A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within these words.

### Illustrations.

(a) A, a munshi, obtains from Z, a banker, a deposit in Z's bank for A's brother, as a reward to A for doing a cause in favour of Z. A has committed the offence defined in this section.

(b) A, a subsidiary Judge, obtains from Z, a Minister of that Government, a sum of money as a motive or reward for doing or performing a particular official act, or for rendering or attempting to render any particular service to that Power with the Government. But it does appear that A accepted the sum as a motive or reward for generally showing favour or exercise of his official functions to that Power. A has committed the offence defined in this section.

(c) A, a public servant, induces Z, erroneously to believe that A's influence with the Government has been

tle for Z, and thus induces Z to give A money as a reward for this service. A has committed the offence defined in this section.

**162.** Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by corrupt or illegal means, any public servant to do or to forbear to do any official act, or, in the exercise of the official functions of such public servant, to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person, with the Legislative or Executive Government of India, or with the Government of any Presidency, or with any Lieutenant-Governor, or with any member of the Senate of the Allahabad University, or with any public servant as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**163.** Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant to do or to forbear to do any official act, or, in the exercise of the official functions of such public servant, to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Legislative or Executive Government of India, or with the Government of any Presidency, or with any Lieutenant-Governor, or with any member of the Senate of the Allahabad University, or with any

## 66 OFFENCES RELATING TO PUBLIC SERVANTS

public servant as such, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

### *Illustrations.*

An advocate who receives a fee for arguing a case before a Judge, a person who receives pay for arranging to correct a memorial addressed to Government, for the services and claims of the memorialist, an agent for a condemned criminal, who lays before Government statements tending to show that the condemnation was unjust, are not within this section, inasmuch as they do not exercise to profess to exercise personal influence.

164. Whoever, being a public servant, in respect of whom either of the offences defined in the last preceding sections is committed, abets the offence, shall be

Punishment for abetment by public servant of offences defined in section 162 or 163

punished with imprisonment of either description for a term which may extend to three years or with fine, or with both.

### *Illustration.*

A is a public servant. B, A's wife, receives a promise of an office to a particular person. A abets her doing so. B is punishable with imprisonment for a term not exceeding one year, or with fine, or with both. A is punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

165. Whoever, being a public servant, obtains, or obtains, or agrees to obtain, or attempts to obtain, for himself or for any other person, any valuable thing, without consideration or for a consideration which he knows to be inadequate,

Public servant obtaining valuable thing, without consideration, from person concerned in proceeding or business transacted by such public servant

or obtains, or agrees to obtain, or attempts to obtain, for himself or for any other person, any valuable thing, without consideration or for a consideration which he knows to be inadequate,

from any person whom he knows to have been, to be, or to be likely to be, concerned in any trading or business transacted, or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in, or related to, the person so concerned, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

### *Illustrations.*

(a) A, a Collector, hires a house of Z, who has a settlement case pending before him. It is agreed that A shall pay fifty rupees a month, the house being such that, if the gain were made in good faith, A would be required to pay two hundred rupees a month. A has obtained a valuable thing from Z without adequate consideration.

(b) A, a Judge, buys of Z, who has a cause pending in A's Court, Government promissory notes at a discount when they are selling in the market at a premium. A has obtained a valuable thing from Z without adequate consideration.

(c) Z's brother is apprehended and taken before A, a Magistrate, on a charge of perjury. A sells to B shares in a bank at a premium when they are selling in the market at a discount. Z pays A for the shares accordingly. The money so obtained by A is a valuable thing obtained by A without adequate consideration.

166 Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term



# 68 OFFENCES RELATING TO PUBLIC SERVANTS.

which may extend to one year, or with fine, or with both.

## Illustration.

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favour by a Court of Justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this section.

### 167. Whoever, being a public servant, and being

Public servant framing an incorrect document with intent to cause injury as such public servant, charged with the preparation or translation of any document, frames or translates that document, in a

manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause, injury to any person shall be punished with imprisonment of either description for a term which may extend to three years or with fine, or with both.

### 168. Whoever, being a public servant, and being

Public servant not legally bound, as such public servant, not to engage in trade, lawfully engaging in trade engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

### 169. Whoever, being a public servant, and being

Public servant not legally bound, as such public servant, not to purchase or bid for certain property, purchases or bids for that property either in his own name, or in the name of another, or jointly or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with

, or with both ; and the property, if purchased, shall be confiscated.

170. Whoever pretends to hold any particular position as a public servant, knowing that he does not hold such office, or falsely personates any other person holding an office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description for a term which may extend to two years, with fine, or with both.

171. Whoever, not belonging to a certain class of public servants, wears any garb or token used by that class of public servants, with intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

## CHAPTER X.

### CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172. Whoever absconds in order to avoid being served with a summons, notice, or order proceeding from any public servant legally competent, such public servant, to issue such summons, notice, or order, shall be punished with simple imprisonment for a term which may extend to one month, or with

fine which may extend to five hundred rupees, with both ;

or, if the summons, notice, or order is to attend in person or by agent, or to produce a document in Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**173.** Whoever in any manner intentionally prevents the serving on him-  
Preventing service of summons or other proceeding or preventing publication thereof or on any other person, of summons, notice, or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice, or order,

or intentionally prevents the lawful affixing to place of any summons, notice, or order,

or intentionally removes any such summons, notice, or order from any place to which it is lawfully affixed,

or intentionally prevents the lawful making any proclamation, under the authority of any public servant legally competent, as such public servant direct such proclamation to be made,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both ;

or, if the summons, notice, order, or proclamation is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, with fine which may extend to one thousand rupees, or with both.

**174.** Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a public servant, intentionally omits to attend at that place or time, or, if the summons, notice, order, or proclamation, is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both ;

or, if the summons, notice, order, or proclamation, is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

*Illustrations.*

" 1. A, being legally bound to appear before the Zillah Judge as a witness in obedience to summons issued by that Zillah Judge, intentionally omits to appear. A has committed the offence defined in this section.

(b) A, being legally bound to appear before a Zillah Judge as a witness in obedience to summons issued by that Zillah Judge, intentionally omits to appear. A has committed the offence defined in this section.

**175.** Whoever being legally bound to produce or deliver up any document to any public servant, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine

which may extend to five hundred rupees, or both ;

or, if the document is to be produced or delivered up to a Court of Justice, with simple imprisonment for a term which may extend to six months, or fine which may extend to one thousand rupees with both.

### *Illustration.*

A, being legally bound to produce a document before a Zillah Court intentionally omits to produce the same has committed the offence defined in this section.

**176.** Whoever, being legally bound to give

Omission to give notice or information to public servant by person legally bound to give it

notice, or to furnish information on any subject to any public servant as such, intentionally omits to give such notice or to furnish such information in the manner

and at the time required by law, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both ;

or, if the notice or information required is given respecting the commission of an offence, or the prevention of an offence, or in order to the apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**177.** Whoever, being legally bound to furnish

Furnishing false information.

information on any subject to any public servant as such, knowingly gives false information

on the subject which he knows or has reason to believe to be false, shall

shed with simple imprisonment for a term which extend to six months, or with fine which may ad to one thousand rupees, or with both ;  
r, if the information which he is legally bound ve respects the commission of an offence, or is ired for the purpose of preventing the commis- of an offence, or in order to the apprehension in offender, with imprisonment of either des- tion for a term which may extend to two years, ith fine, or with both.

### Illustrations

a) A, a landholder, knowing of the commission of a ler within the limits of his estate, wilfully misinforms Magistrate of the district that the death has occurred cident in consequence of the bite of a snake. A is y of the offence defined in this section

b) A, a village-watchman, knowing that a considerable of strangers has passed through his village in order to mit a dacoity in the house of Z, a wealthy merchant ling in a neighbouring place, and being bound, under , s 7, Reg III, 1821, of the Bengal Code, to give y and punctual information of the above fact to the offi- of the nearest police-station, wilfully misinforms the ce-officer that a body of suspicious characters passed ough the village with a view to commit dacoity in a cer- distant place in a different direction. Here A is guilty he offence defined in the latter part of this section

*Explanation.*—In section 176 and in this section word “offence” includes any act committed at : place out of British India, which, if committed British India, would be punishable under any of  
“ ” 304, 382, 392,  
“ ” 402, 435, 436,  
“ ” and the word  
“offender” includes any person who is alleged to  
“ ” been guilty of any such act,

## 178. Whoever refuses to bind himself

Refusing oath or affirmation when duly required by public servant to make it

oath or affirmation to state truth, when required so to bind himself by a public servant legally competent to require

he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to thousand rupees, or with both

## 179 Whoever, being legally bound to state

Refusing to answer truth on any subject to any public servant, refuses to answer any question demanded of

him touching that subject by such public servant, in exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

## 180. Whoever refuses to sign any statement

Refusing to sign statement made by him, when required to sign that statement by a public servant legally competent to require that he should

sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

## 181 Whoever, being legally bound by an oath

False statement on oath or affirmation to public servant or person authorized to administer an oath or affirmation.

or affirmation to state the truth on any subject to any public servant or other person authorized by law to administer such oath or affirmation, makes

such public servant or other person as aforesaid touching that subject, any statement which is false

and which he either knows or believes to be false, or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

182. Whoever gives to any public servant any false information with intent to cause such public servant to use his lawful power to the injury of another person, information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

### *Illustrations.*

(a) A informs a Magistrate that Z, a police-officer subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.

(b) A falsely informs a public servant that Z has committed an offence, and induces such public servant to use his lawful power to the injury of Z. A has committed the offence defined in this section.



with annoyance to Z. A has committed the offence *described* in this section.

(c) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person one of his assailants, but knows it to be likely that in consequence of this information, the police will make enquiry of

**183.** Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is a public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**184.** Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant as such shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

**185.** Whoever, at any sale of property held by the lawful authority of a public servant as such, purchases or bids for any property on account of any person, whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such

ding, shall be punished with imprisonment of  
 er description for a term which may extend to  
 month, or with fine which may extend to two  
 idred rupees, or with both.

186. Whoever voluntarily obstructs any public  
 obstructing public servant in the discharge of his  
 ant in discharge public functions shall be punish-  
 ublic functions ed with imprisonment of either  
 cription for a term which may extend to three  
 nths, or with fine which may extend to five hun-  
 d rupees, or with both

187. Whoever, being bound by law to render  
 mission to assist or furnish assistance to any pub-  
 lic servant when lic servant in the execution of  
 nd by law to give his public duty, intentionally  
 stance its to give such assistance, shall be punished with  
 iple imprisonment for a term which may extend  
 one month, or with fine which may extend to two  
 ndred rupees, or with both :

and, if such assistance be demanded of him by a  
 ublic servant legally competent to make such do-  
 und for the purposes of executing any process law-  
 lly issued by a Court of Justice, or of preventing  
 a commission of an offence, or of suppressing a  
 it or affray, or of apprehending a person charged  
 th or guilty of an offence or of having escaped  
 om lawful custody, shall be punished with simple  
 iple imprisonment for a term which may extend to six  
 onths, or with fine which may extend to five hun-  
 ed rupees, or with both.

188. Whoever, knowing that, by an order pro-  
 Disobedience to or- mulgated by a public servant  
 dely promulgated lawfully empowered to promul-  
 ublic servant, gate such order he is directed to

abstain from a certain act, or to take certain property in his possession or management, disobeys such direction,

shall, if such disobedience causes or tends to cause obstruction, annoyance, or injury, or if it obstructs, annoys, or injures, to any person lawfully employed, be punished with imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both ;

and, if such disobedience causes or tends to danger to human life, health, or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

*Explanation.*—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces or is likely to produce, harm.

#### *Illustration.*

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger or riot. A has committed the offence defined in this section.

**189.** Whoever holds out any threat of injury to

Threat of injury to any public servant, or to any person in whom he believes to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the duties of his office, shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

se of the public functions or such public ser-  
shall be punished with imprisonment of either  
tion for a term which may extend to two  
or with fine, or with both.

2. Whoever holds out any threat of injury to  
any person for the purpose of  
inducing that person to refrain  
of injury to person to re-  
om applying or desist from making a legal  
section to pub- application for protection against  
nt. any injury to any public servant  
empowered as such to give such protection,  
ause such protection to be given, shall be pu-  
with imprisonment of either description for a  
which may extend to one year, or with fine, or  
oth.

## CHAPTER XI.

### FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

1. Whoever, being legally bound by an oath,  
false ev- or by any express provision of  
law, to state the truth, or being  
by law to make a declaration upon any sub-  
takes any statement which is false, and which  
er knows or believes to be false, or does not  
to be true, is said to give false evidence.

*Explanation 1.*—A statement is within the mean-  
this section, whether it is made verbally or  
rise.

*Explanation 2.*—A false statement as to the be-  
the person attesting is within the meaning of  
ection, and a person may be guilty of giving  
evidence by stating that he believes a thing

which he does not believe, as well as by stating that he knows a thing which he does not know.

### Illustrations.

(a) A in support of a just claim which B has asserted for one thousand rupees, falsely swears on a trial that he heard Z admit the justice of B's claim. A has given false evidence.

(b) A, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of Z when he does not believe it to be the handwriting of Z. Here A states that which he knows to be false and therefore, gives false evidence.

(c) A knows the general character of Z's handwriting and states that it is the handwriting of Z. A's statement is true as to his belief and therefore, although the signature may not be the handwriting of Z, A has not given false evidence.

named or not

(e) A, an interpreter or translator, gives or certifies a true interpretation or translation of a statement or document which he is bound by oath to interpret or translate truly, that which is not, and which he does not believe to be, a true interpretation or translation. A has given false evidence.

192. Whoever causes any circumstance to exist or makes any false entry in any

Fabricating false evidence or makes any false entry in any book or record, or makes any document containing a false statement, intending that such circumstance, false entry, or false statement, may appear in evidence in a judicial proceeding, or in a proceeding taken by law before

public servant as such, or before an arbitrator, that such circumstance, false entry, or false statement, so appearing in evidence, may cause any person, who, in such proceeding, is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding, is said "to fabricate false evidence."

### *Illustrations.*

a) A puts jewels into a box belonging to Z, with the intention that they may be found in that box, and that such circumstance may cause Z to be convicted of theft. A has fabricated false evidence.

b) A makes a false entry in his shop-book for the purpose of using it as corroborative evidence in a Court of law. A has fabricated false evidence.

(c) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z's handwriting, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the police are likely to reach. A has fabricated false evidence.

**193.** Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

and whoever intentionally gives or fabricates false evidence in any other case shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

*Explanation 1.*—A trial before a Court is a judicial proceeding.

*Explanation 2.*—An investigation directed preliminary to a proceeding before a Court is a stage of a judicial proceeding, that investigation may not take place before of Justice.

*Illustration.*

A, in an inquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed to prison, makes on oath a statement which he knows to be false; this enquiry is a stage of a judicial proceeding, and A has given false evidence.

*Explanation 3.*—An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

*Illustration.*

A, in an inquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of a village, makes on oath a statement which he knows to be false; this enquiry is a stage of a judicial proceeding, and A has given false evidence.

194. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital by the law of British India or England, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine;

Giving or fabricating false evidence with intent to procure conviction of capital offence.

dence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital by the law of British India or England, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine;

and, if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described.

**195.** Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which, by the law of British India or England, is not capital, shall be punished with transportation for life, or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence could be liable to be punished.

*Illustration.*

A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The punishment of dacoity is transportation for life or rigorous imprisonment for a term which may extend to ten years, with or without fine. A, therefore, is liable to such transportation or imprisonment, with or without fine.

**196.** Whoever corruptly uses, or attempts to use, evidence known to be false, as true or genuine evidence, any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

**197.** Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is





screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false,

shall, if the offence which he knows or believes to have been committed is punishable as a capital offence, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

and, if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

and, if the offence is punishable with imprisonment for any term not extending as punishable with more than ten years' imprisonment to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine or with both.

### *Illustration*

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine

202. Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

sonment of either description for a term which may extend to six months, or with fine, or with both.

**203.** Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence, knowing or believing so to do, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

*Explanation.*—In sections 201 and 202 of this section, the word 'offence' includes any offence committed in any place out of British India. If committed in British India, would be punishable under any of the following sections, namely, 304, 382, 392, 393, 394, 395, 396, 397, 398, 435, 436, 449, 450, 457, 458, 459, and 460.

**204.** Whoever secretes or destroys any document which he may be lawfully compelled to produce as evidence in a Court of Justice, or proceeding lawfully held before a public servant, or obliterates or renders illegible the whole or any part of such document with the intention of preventing the same from being produced or used as evidence before such Court or public servant, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**205.** Whoever falsely personates another person in such assumed character as to induce any admission or statement, or to procure a judgment, or cause

ess to be issued, or becomes bail or security, or any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**206.** Whoever fraudulently removes, conceals, transfers, or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made, by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**207.** Whoever fraudulently accepts, receives, or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practices any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely

to be made, by a Court of Justice in a civil suit shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both.

**208.** Whoever fraudulently causes or suffers a decree or order to be made against him at the suit of any person for a sum not due, or for a larger sum than is due to such person, or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him if it has been satisfied, or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

#### *Illustration.*

A institutes a suit against Z. Z, knowing that he is likely to obtain a decree against him, fraudulently causes judgment to pass against him, for a larger amount than is due to him, at the suit of B who has no just claim against him, in order to enable B, either on his own account or for the benefit of Z, to share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this section.

**209.** Whoever fraudulently or dishonestly makes with intent to injure or defraud any person, makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

**210.** Whoever fraudulently obtains a decree or order against any person for a sum not due, or for a larger sum than is due, or for any property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

interest in property to which he is not entitled, or wilfully causes a decree or order to be executed against any person after it has been satisfied, or for doing in respect of which it has been satisfied, or wilfully suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

211. Whoever, with intent to cause injury to any person, institutes, or causes to be instituted, any criminal proceeding against that person, falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, with fine, or with both,

and, if such criminal proceeding be instituted on the charge of an offence punishable with death, transportation for life, or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

212. Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender with the intention of screening him from legal punishment,

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine;

and, if the offence is punishable with transportation for life, or with imprisonment which may extend to years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ;

and, if the offence is punishable with imprisonment which may extend to one year, and not to more than three years, shall be punished with imprisonment of either description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

'Offence' in this section includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 305, 392, 393, 394, 395, 396, 397, 398, 399, 402, 438, 439, 449, 450, 457, 458, 459, and 460 ; and every act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India.

*Exception* — This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

#### *Illustration.*

A, knowing that B has committed dacoity, harbours and conceals B in order to screen him from legal punishment. Here, as B is liable to transportation for life, A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

**213.** Whoever accepts, or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of property

Taking gift, &c., to screen an offender from punishment —

agrees to accept, any gratification for himself or any other person, or any restitution of property

y to himself or any other person, in consideration of his concealing an offence, or of his screening person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment,

shall, if the offence is punishable with death, be punished with imprisonment of a capital offence, either description for a term which may extend to seven years, and shall also be liable to fine ;

and, if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ;

and, if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both

**214** Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or to restore or cause the restoration of any property to any person, in consideration of that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment,



shall, if the offence is punishable with death, be  
 If a capital offence; punished with imprisonment of  
 either description for a term  
 which may extend to seven years, and shall also be  
 liable to fine;

and, if the offence is punishable with transportation  
 if punishable with for life, or with imprisonment  
 transportation for life, which may extend to ten years,  
 or with imprisonment. shall be punished with imprison-  
 ment of either description for a term which may  
 extend to three years, and shall also be liable to  
 fine;

and, if the offence is punishable with imprison-  
 ment not extending to ten years, shall be punished  
 with imprisonment of the description provided for  
 the offence for a term which may extend to one-  
 fourth part of the longest term of imprisonment  
 provided for the offence, or with fine, or with  
 both.

*Exception* —The provisions of sections 213 and  
 214 do not extend to any case in which the offence  
 may lawfully be compounded.

215. Whoever takes, or agrees or consents to  
 take, any gratification under prom-  
 ise or on account of helping  
 any person to recover any prop-  
 erty, of which he shall have been deprived  
 by any offence punishable under this Code, shall, ex-  
 cept he uses all means in his power to cause the of-  
 fender to be apprehended and convicted of the offence,  
 be punished with imprisonment of either description  
 for a term which may extend to two years, or with  
 fine, or with both.

216 Whenever any person convicted of, or charged with, an offence, being in lawful custody for that offence, escapes from such custody, or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence, whoever, knowing of such escape or order for apprehension, harbours or conceals that person, with the intention of preventing him from being apprehended, shall be punished in the manner following, that is to say,

if the offence for which the person was in custody or is ordered to be apprehended is a capital offence, he shall be punished with death, he shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

if the offence is punishable with transportation for life, or imprisonment for ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine ;

and, if the offence is punishable with imprisonment which may extend to one year, and not to ten years, he shall be punished with imprisonment of for a term of the longest such offence,

guilty of it in British India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in British India: and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India.

*Exception.*—This provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

**216A** Whoever, knowing or having reason to believe that any persons are about to commit, or have recently committed, robbery or dacoity, harbours them or any of them, with the intention of facilitating the commission of such robbery or dacoity, or of screening them or any of them from punishment, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

*Explanation.*—For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed, within or without British India.

*Exception.*—This provision does not extend to the case in which the harbour is by the husband or wife of the offender.

**216B.** In section, 212, 216, and 216A, the word 'harbour' includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition, or means of conveyance, or the assisting a person in any way to evade apprehension.

**217.** Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or subject him to a less punishment than it to which he is liable, or with intent to save, or owing that he is likely thereby to save, any property from forfeiture, or any charge to which it is due by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**218.** Whoever, being a public servant, and being, as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that it will thereby cause, loss or injury to the public or any person, or with intent thereby to save, or owing it to be likely that he will thereby save, any person from legal punishment, or with intent to do so, or knowing that he is likely thereby to save, any property from forfeiture, or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**219.** Whoever, being a public servant, corruptly or maliciously makes or pronounces, in any stage of a judicial proceeding, any report, order, verdict, or decision, which he

knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

220. Whoever, being in any office which gives

Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.

him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial

or to confinement, or keeps any person in confinement in the exercise of that authority, knowing that, in so doing, he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

221. Whoever, being a public servant, legally

Intentional omission to apprehend on the part of public servant bound to apprehend.

bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for

an offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape or intentionally aids such person in escaping, or attempting to escape, from such confinement, shall be punished as follows, that is to say :—

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with death; or

with imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement, or who ought

have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with transportation for life, or imprisonment for a term which may extend to ten years ; or

with imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement, or who ought to have been apprehended, is charged with, or liable to an offence punishable with imprisonment for less than ten years.

**222.** Whoever, being a public servant, legally bound as such public servant to apprehend, or to keep in confinement, any person under sentence of a Court of Justice for any offence, or lawfully committed to custody, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping, or attempting to escape, from such confinement, shall be punished as follows, that is to say :—

with transportation for life, or with imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement, or who ought to have been apprehended, is under sentence of death ; or

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, is subject, by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to transportation for life or penal servitude for life, or to transportation or penal servitude or imprisonment for a term of ten years or upwards ; or

with imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement, or who ought to have been apprehended, is subject, by sentence of a Court of Justice, to imprisonment for a term not extending to ten years, or if the person was lawfully committed to custody.

**223.** Whoever, being a public servant, legally bound as such public servant to keep in confinement any person charged with, or convicted of any offence, or lawfully committed to custody, negligently suffers such person to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

**224.** Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he has been charged, or of which he has been convicted, or escapes, or attempts to escape, from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

*Explanation* — The punishment in this section is in addition to the punishment for which the person to be apprehended in custody was liable for the offence with which he was charged, or of which he was convicted.

**225.** Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescue

tempts to rescue any other person from any place in which that person is lawfully detained for any offence, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both ;

and if the person to be apprehended, or the person attempted to be rescued, is charged with, or liable to be apprehended for, an offence punishable with transportation for life or imprisonment for a term which may extend to three years, shall be punished with imprisonment of either description for a term which may extend to three years, and also be liable to fine ;

and if the person to be apprehended or rescued, or attempted to be rescued, is charged with, or liable to be apprehended for, an offence punishable with imprisonment for a term which may extend to seven years, and shall also be liable to fine ;

and if the person to be apprehended or rescued, or attempted to be rescued, is liable under the sentence of a Court of Justice, or by virtue of a commutation of such a sentence, to transportation for life, or to transportation, penal servitude, or imprisonment for a term of ten years or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and also be liable to fine ;

and if the person to be apprehended or rescued, or attempted to be rescued, is under sentence of imprisonment, shall be punished with transportation for life or imprisonment of either description for a term exceeding ten years, and shall also be liable to





imprisoned with rigorous imprisonment for a term not exceeding three years before he is so transferred.

27. Whoever, having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted, shall be punished with the punishment to which he was originally sentenced if he has already suffered part of that punishment, and if he has suffered no part of that punishment then with so much as of that punishment as he has not already suffered.

28. Whoever, intentionally offers any insult or causes any interruption to any public servant while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

29. Whoever, by personation or otherwise, shall intentionally cause or knowingly suffer himself to be returned, empanelled, or sworn as a juror or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled or sworn, or to sit on such jury or as such assessor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

## CHAPTER XII.

OF OFFENCES RELATING TO COIN AND GOVERNMENT  
STAMPS.

230. Coin is metal used for the time being as money, and stamped and issued by the authority of some Sovereign Power in order to be so used.

Queen's coin is metal stamped and issued by the authority of the Queen, or the authority of the Governor of India, or of the Government or any Provincial Government in the Queen's dominions, order to be used as money; and metal which has been so stamped and issued shall continue to be Queen's coin for the purposes of this chapter, notwithstanding that it may have ceased to be money.

*Illustrations.*

(a) Cowries are not coin

(b) Lumps of unstamped copper, though used as money, are not coin

(c) Medals are not coin, inasmuch as they are not intended to be used as money

(d) The coin denominated as the Company's rupee is Queen's coin

(e) The 'Farukhabad' rupee, which was formerly used as money under the authority of the Government of India, is Queen's coin, although it is no longer so used.

231. Whoever counterfeits, or knowingly forms any part of the process of counterfeiting, coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

*Explanation.*—A person commits this offence, intending to practise deception, or knowing it is likely that deception will thereby be practised, passes a genuine coin to appear like a different coin.

232. Whoever counterfeits, or knowingly counterfeit, or knowingly part of the process of counterfeiting, the Queen's coin, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

233. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells, or disposes of, any die or instrument, the purpose of being used, or having reason to believe that it is intended to be used, for the purpose of counterfeiting the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

234. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells, or disposes of, any die or instrument, for the purpose of being used, or knowing having reason to believe that it is intended to be used, for the purpose of counterfeiting the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

235. Whoever is in possession of any instrument or material for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same

is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine ;

and, if the coin to be counterfeited is the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

**236.** Whoever, being within British India, abetting in India the counterfeiting out of the counterfeiting of coin or British India, shall be punished in the same manner as if he abetted the counterfeiting of such coin within British India.

**237.** Whoever imports into British India, or exports therefrom, any counterfeit coin, knowing or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**238.** Whoever imports into British India, or exports therefrom, any counterfeit coin which he knows, or has reason to believe, to be a counterfeit, shall be punished with imprisonment of either description for a term which may extend to ten years.

**239.** Whoever, having any counterfeit coin, which, at the time when he became possessed of it, he knew to be counterfeit, fraudulently delivers the same to another person, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

nitted, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall be liable to fine.

240. Whoever, having any counterfeit coin which is a counterfeit of the Queen's coin, and which, at the time when he became possessed of it, he knew to be a counterfeit of

Queen's coin, fraudulently or with intent that it may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

241. Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin, which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to five years, or, with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

### *Illustration*

A, a coiner, delivers counterfeit Company's rupees to his accomplice B for the purpose of uttering them. B sells the rupees to C, another utterer, who buys them, knowing them to be counterfeit. C sells the goods to D, who is an utterer. D is also a counterfeit utterer. Here D is

punishable only under this section, but B and C are punishable under section 239 or 240, as the case may be

242. Whoever fraudulently, or with intent to defraud, commits the offence of possession of counterfeit coin, having known at the time when he became possessed thereof, that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof.

fraud may be committed, in possession of counterfeit coin, having known at the time when he became possessed thereof, that such coin was counterfeit.

be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

243. Whoever fraudulently, or with intent to defraud, commits the offence of possession of counterfeit coin, which is a counterfeit of the Queen's coin, having known at the time when he became possessed of it that it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine

Possession of Queen's coin by person who knew it to be counterfeit when he became possessed thereof.

fraud may be committed, in possession of counterfeit coin, which is a counterfeit of the Queen's coin, having known at the time when he became possessed of it that it was counterfeit.

the time when he became possessed of it that it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine

244. Whoever, being employed in any mint lawfully established in British India, does any act, or omits to do what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from that fixed by law, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Person employed in mint causing coin to be of different weight or composition from that fixed by law.

lawfully established in British India, does any act, or omits to do what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from that fixed by law.

to be of a different weight or composition fixed by law, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

245. Whoever, without lawful authority, takes out of any mint lawfully established in British India, any coin, or any tool or instrument, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Unlawfully taking out of mint any coin, or any tool or instrument.

without lawful authority, takes out of any mint lawfully established in British India, any coin, or any tool or instrument, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

nished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**246.** Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

*Explanation.*—A person who scoops out part of a coin, and puts anything else into the cavity, alters the composition of that coin.

**247.** Whoever fraudulently or dishonestly performs on any of the Queen's coin any operation which diminishes the weight or alters the composition of that coin shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**248.** Whoever performs on any coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**249.** Whoever performs on any of the Queen's coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description.



'description,' shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

250. Whoever, having coin in his possession, Delivery of coin with respect to which the offence defined in section 246 or 247 has been committed, and he knows that it is altered, has been committed, and he knows at the time when he

came possessed of such coin that such offence has been committed with respect to it, fraudulently, or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

251. Whoever, having coin in his possession, Delivery of Queen's coin possessed with knowledge that it is altered, with respect to which the offence defined in section 247 or 248 has been committed, and he knows at the time when he

came possessed of such coin that such offence has been committed with respect to it, fraudulently, or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

252. Whoever fraudulently, or with intent that fraud may be committed, Possession of coin by person who knew it to be altered when he became possessed thereof, possession of coin with respect to which the offence defined in either of the sections 246 or 247 has been committed, and he

and at the time of becoming possessed thereof such offence had been committed with respect to coin, shall be punished with imprisonment of description for a term which may extend to years, and shall also be liable to fine.

53. Whoever fraudulently, or with intent that possession of fraud may be committed, is in possession of coin with respect to which the offence defined in either of the sections 247 or 249 has been committed having

and at the time of becoming possessed thereof such offence had been committed with respect to coin, shall be punished with imprisonment of description for a term which may extend to years, and shall also be liable to fine.

54. Whoever delivers to any other person as genuine, or as a coin of a different description from what it is, or attempts to induce any person to receive as genuine, or as a different coin from what it is, coin in respect of which he knows that any such offence as that mentioned in section 247 or 249

has been committed, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin for which the alteration is passed or attempted to be passed.

255. Whoever counterfeits, or knowingly counterfeit, or knowingly uses any part of the process of counterfeit, any stamp issued by the Government.

# 110 OFFENCES RELATING TO GOVERNMENT STAMPS

by Government for the purpose of revenue, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

*Explanation.*—A person commits this offence who counterfeits any stamp issued by Government for the purpose of revenue, or who uses, or attempts to use, any such stamp for the purpose of obtaining any such stamp.

**256.** Whoever has in his possession any instrument or material for the purpose of being used or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**257.** Whoever makes, or performs any part of the process of making, or buys, or sells, or disposes of, any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**258.** Whoever sells, or offers for sale, any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment

or description for a term which may extend to seven years, and shall also be liable to fine.

259. Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government for the purpose of revenue, intending to use or dispose of the same as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

260. Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

261. Whoever fraudulently, or with intent to cause loss to Government, removes or effaces from any substance bearing any stamp issued by Government for the purpose of revenue, any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used on such writing or document, in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

# 112 OFFENCES RELATING TO GOVERNMENT STAMPS.

262. Whoever fraudulently, or with intent to cause loss to Government, uses a Government stamp known to have been before used, for any purpose a stamp is by Government for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both.

263. Whoever fraudulently, or with intent to cause loss to Government, erases or removes from a stamp issued by Government for the purpose of revenue any mark put or impressed on such stamp for the purpose of denoting that it has been used, or knowingly has in his possession, or sells or disposes of, any such stamp from which such mark has been erased or removed, or sells or disposes of any such stamp which he knows to have been so used, shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both.

Prohibition of fictitious stamps

263A. (1) Whoever—

(a) makes, knowingly utters, deals in, or sells any fictitious stamps, or knowingly uses for any postal purpose any fictitious stamp, or

(b) has in his possession, without lawful excuse, any fictitious stamp, or

(c) makes or, without lawful excuse, has in his possession any die, plate, instrument, or materials for making any fictitious stamp,

shall be punished with fine which may extend to two hundred rupees.

2). Any such stamp, die, plate, instrument, or materials in the possession of any person for making fictitious stamp, may be seized, and shall be cited.

3) In this section 'fictitious stamp' means, any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage, or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by Government for that purpose.

4) In this section and also in section 255 to 263 (both inclusive), the word 'Government,' when used in connection with, or in reference to, any stamp issued for the purpose of denoting a rate of postage, shall, notwithstanding anything, in section 17, be deemed to include the person or persons authorized by law to administer executive government in any part of India, and also in any part of Her Majesty's dominions, or in any foreign country.

## CHAPTER XIII.

### OF OFFENCES RELATING TO WEIGHTS AND MEASURES

264. Whoever fraudulently uses any instrument for weighing, which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to one year with fine, or with both

265. Whoever fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of

length or capacity, as a different weight or measure from what it is, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

266. Whoever is in possession of any instrument for weighing, or of any measure of weight, or of any measure of length or capacity, which he knows to be false, and intending that the same may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

267. Whoever, makes, sells, or disposes of any instrument for weighing, or of any measure of weight, or of any measure of length or capacity, which he knows to be false, in order that the same may be used as such, or knowing that the same is likely to be used as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

## CHAPTER XIV.

### OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY, AND MORALS.

268. A person is guilty of a public nuisance, who does any act, or is guilty of an illegal omission, which causes any common injury, danger, or annoyance to the public or to the people in general who use or occupy property in the vicinity, or which necessarily cause injury, obstruction, danger, or

ance to persons who may have occasion to use public right.

A common nuisance is not excused on the ground that it causes some convenience or advantage.

269. Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both

270. Whoever maliciously does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

271. Whoever knowingly disobeys any rule made and promulgated by the Government of India, or by any Government, for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, or for regulating the intercourse between places where an infectious disease prevails and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

272. Whoever adulterates any article of food or drink so as to make such article noxious as food or drink, intending to sell such article



as food or drink, or knowing it to be likely to be the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**273.** Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**274.** Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medical purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**275.** Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to

used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

276. Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

277. Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

278. Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood, or passing along a public way, shall be punished with fine which may extend to five hundred rupees.

279. Who drives any vehicle, or rides, on any public way, in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with im-

prisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**280.** Whoever navigates any vessel in a rash navigation of such so rash or negligent as to endanger human life, or cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**281.** Whoever exhibits any false light, mark, or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**282.** Whoever knowingly or negligently conveys or causes to be conveyed, for hire, any person by water, in such a vessel, when that vessel is so loaded as to endanger the life of that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**283.** Whoever by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction, or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to two hundred rupees.

**284.** Whoever does, with any poisonous substance, any act in a manner so negligent conduct in respect to poisonous substance as to endanger human life, or to be likely to cause hurt or injury to any person,

or knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against probable danger to human life from such poisonous substance,

shall be punished with imprisonment of either description for a term which may extend to six months with fine which may extend to one thousand rupees, or with both.

**285.** Whoever, does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter,

shall be punished with imprisonment of either description for a term which may extend to six months, with fine which may extend to one thousand rupees, or with both.

**286.** Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person.

or knowingly or negligently omits to take such order with any explosive substance in his possession

as is sufficient to guard against any probable danger to human life from that substance,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

287. Whoever does, with any machinery, or

Negligent conduct with respect to machinery act so rashly or negligently as to endanger human life or be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

288. Whoever, in pulling down or repairing any

Negligent conduct with respect to pulling down or repairing buildings building, knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

289. Whoever knowingly or negligently omits

Negligent conduct with respect to animal to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment

ment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**290.** Whoever commits a public nuisance in any case not otherwise punishable by this Code shall be punished with fine which may extend to two hundred rupees.

Punishment for public nuisance in cases not otherwise provided for.

**291.** Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

Continuance of nuisance after injunction to discontinue.

**292.** Whoever sells or distributes, imports or sale, &c., of obscene books, &c., prints for sale or hire, or wilfully exhibits to public view, any obscene book, pamphlet, paper, drawing, painting, representation, or figure, or attempts or offers so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

*Exception.*—This section does not extend to any representation sculptured, engraved, painted, or otherwise represented, on or in any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.

**293.** Whoever has in his possession any such obscene book or other thing as is mentioned in the last preceding section for the purpose of sale, distribution, or public exhibition, shall be punished

Having in possession obscene book, &c., for sale or exhibition.

Obscene acts and songs, 294. Whoever, to the annoyance of others

(b) sings, recites, or utters any obscene song, ballad, or words in or near any public place,

294A. Whoever keeps any office or place for

And whoever publishes any proposal to pay a sum, or to deliver any goods, or to do or forbear doing anything for the benefit of any person, on any one or more of the following conditions, to wit:—

to one thousand rupees.

## OF OFFENCES RELATING TO RELIGION

Injuring or defiling place of worship, with intent to insult the religion of any class.

persons is 'likely' to consider such destruction, or defilement as an insult to their religion, be punished with imprisonment of either description for a term which may extend to two years, with fine, or with both.

96. Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with

97. Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be insulted thereby,

commits any trespass in any place of worship, or in any place of sepulchre, or any place set apart for the performance of funeral rites, or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies,

shall be punished with imprisonment of either description for a term which may extend to one year, with fine, or with both.

298. Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person, shall be punished



(b) A knowing that Z is labouring under such that a blow is likely to cause his death, strikes the intention of causing bodily injury Z dies in consequence of the blow. A is guilty of murder, although blow might not have been sufficient, in the ordinary nature of things.

health, here A, although he may intend to cause injury, is not guilty of murder, if he did not intend death or such bodily injury as, in the ordinary course of nature, would cause death.

(c) A, intentionally gives Z a sword cut or blow sufficient to cause the death of a man in the ordinary course of nature Z dies in consequence. Here A is guilty of murder, although he may not have intended to cause death.

(d) A, without any excuse, fires a loaded cannon at a crowd of persons, and kills one of them. A is guilty of murder, although he may not have had a premeditated intention to kill any particular individual.

**Exception 1.**—Culpable homicide is not murder.

When culpable homicide is not murder, if the offender, whilst doing the act, is deprived of the power of self-control by grave and sudden provocation, causing the death of the person who gave the provocation, or causing the death, of any other person by mistake or accident.

The above exception is subject to the following provisos:—

**Firstly.**—That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

**Secondly.**—That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the power of such public servant.



may have committed only culpable homicide, but *not* of murder.

*Exception 2.*—Culpable homicide is not murder if the offender, in the exercise, in good faith, of the right of private defence of person or property, exceeds the power given to him by law, and causes the death of the person against whom he is exercising such right of defence, without premeditation, without any intention of doing more harm than necessary for the purpose of such defence.

#### *Illustration.*

Z attempts to horsewhip A, not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A, believing in good faith that he has no other means prevent himself from being horsewhipped, shoots Z dead. A has not committed murder, but culpable homicide.

*Exception 3.*—Culpable homicide is not murder if the offender, being a public servant, or aiding a public servant in the exercise of his functions, exceeds the power given to him by law, and causes the death of any person, without premeditation, and without any intention of doing more harm than necessary for the due discharge of his duty as a public servant, and without any ill-will towards the person whose death is caused.

*Exception 4.*—Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a quarrel, and without the offender's having obtained any undue advantage, or acted in a cruel or unusual manner.

*Explanation.*—It is immaterial in such cases which party offers the provocation, or commits the first assault.

*Exception 5* — Culpable homicide is not murder if the person whose death is caused, being above the age of eighteen years, suffers death, or takes the risk of death, with his own consent.

### *Illustration.*

by instigation, voluntarily causes Z, a person under sixteen years of age, to commit suicide. Here, on account of his youth, he was incapable of giving consent to his own death. A has therefore abetted murder.

301. If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

302. Whoever commits murder shall be punished with death or transportation for life, and shall also be liable to fine.

303. Whoever, being under sentence of imprisonment for murder or life-conviction,

304. Whoever commits culpable homicide not amounting to murder shall be punished with transportation for life or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of

causing death, or of causing such bodily injury as is likely to cause death;

or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

**304A.** Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**305.** If any person under eighteen years of age abets the commission of suicide, whoever abets the commission of suicide, shall be punished with death or transportation for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

**306.** If any person commits suicide, whoever abets the commission of suicide shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**307.** Whoever does any act with such intent or knowledge, and under such circumstances, that, if he had been guilty of murder, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years

shall also be liable to fine ; and, if hurt is caused by person by such act, the offender shall be liable to transportation for life, or to such punishment as is hereinbefore mentioned.

When any person offending under this section is exempted by life-conviction under sentence of transportation for life, he may, if hurt is caused, be punished with death.

### *Illustrations*

(a) A shoots at Z with intention to kill him, under such circumstances that, if death ensued, A would be guilty of murder. A is liable to punishment under this section.

(b) A, with the intention of causing the death of a child under years, exposes it in a desert place. A has committed the offence defined by this section, though the death of the child does not ensue.

(c) A, intending to murder Z, buys a gun, and loads it. A fires the gun at Z. A is liable to the punishment provided by this section ; and if death ensues, he is liable to the punishment provided by the first paragraph of section 302.

(d) A, intending to murder Z by poison, purchases poison, and mixes the same with food which remains in A's possession. A has not yet committed the offence defined in this section. A places the food on Z's table, or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this section.

**308.** Whoever does any act with such intention to attempt to commit murder, or with such knowledge, and under such circumstances, that, if he, by doing that act, caused death, he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years or with fine, or with both ; and, if hurt is caused to any

person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

*Illustration.*

A, on grave and sudden provocation, fires a pistol at Z under such circumstances that, if he thereby causes death, he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this section.

**309.** Whoever attempts to commit suicide, or does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

**310.** Whoever, at any time after the passing of this Act, shall have been habitually associated with any other person or persons for the purpose of committing robbery or child-stealing by means of, or accompanied by, or otherwise, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

**311.** Whoever is a thug shall be punished with imprisonment for life, and shall also be liable to fine.

*Of the Causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births.*

**312.** Whoever voluntarily causes a woman to miscarry shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

or with fine, or with both; and, if the woman quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable

*Explanation.*—A woman who causes herself to abort is within the meaning of this section.

3. Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

4. Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine;

5. If the act is done without the consent of the woman, shall be punished either with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

*Explanation.*—It is not essential to this offence that the offender should know that the act is likely to cause death.

6. Whoever, before the birth of any child, does any act with the intention of thereby preventing that child from being born alive, or causing it to die after its birth, and



person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or both.

### *Illustration.*

A, on grave and sudden provocation, fires a pistol at Z under such circumstances that, if he thereby causes death, he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this section.

**309.** Whoever attempts to commit suicide, or does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or both.

**310.** Whoever, at any time after the passing of this Act, shall have been habitually associated with any person or persons for the purpose of committing robbery, child-stealing by means of, or accompanied by, murder, is a thug.

**311.** Whoever is a thug shall be punished with transportation for life, and shall also be liable to fine.

*Of the Causing of Miscarriage; of Injuries to Children; of the Exposure of Infants; and of Concealment of Births.*

**312.** Whoever voluntarily causes a woman to miscarry shall, if he does so with good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to the

1. or with fine, or with both; and; if the woman be quick with child, shall be punished with imprisonment of either description for a term which extend to seven years, and shall also be liable to fine.

*Explanation.*—A woman who causes herself to abort is within the meaning of this section.

13. Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

14. Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine;

and, if the act is done without the consent of the woman, shall be punished either with transportation for life, or with the punishment above mentioned.

*Explanation.*—It is not essential to this offence that the offender should know that the act is likely to cause death.

15. Whoever, before the birth of any child, does any act with the intention of thereby preventing that child from being born alive, or causing it to die after its birth, and

does by such act prevent that child from being born alive, or causes it to die after its birth, as if such act be not caused in good faith for the purpose of saving the life of the mother, he shall, with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.

**316.** Whoever does any act under such circumstances that, if he thereby caused death, he would be guilty of culpable homicide, and by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Causing death of quick unborn child by act amounting to culpable homicide.

stapces that, if he thereby caused death, he would be guilty of culpable homicide, and by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

### *Illustration.*

A, knowing that he is likely to cause the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured, but does not die, but the death of a quick unborn child with which she is pregnant is caused. A is guilty of the offence defined in this section.

**317.** Whoever, being the father or mother of a child under the age of twelve years, or having the care of a child, shall expose or leave a child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Exposure and abandonment of child under twelve years by parent or person having care of it.

child under the age of twelve years, or having the care of a child, shall expose or leave a child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

*Explanation.*—This section is not intended to prevent the trial of the offender for murder or culpable homicide.

homicide, as the case may be, if the child die in consequence of the exposure.

**318.** Whoever, by secret burying, or otherwise concealment of birth disposing of, the dead body of a secret disposal of child, whether such child die body. . . before, or after, or during its birth, intentionally conceals, or endeavours to conceal, the birth of such child, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

### *Of Hurt.*

**319.** Whoever causes bodily pain, disease, or hurt. infirmity, to any person, is said to cause hurt.

**320.** The following kinds of grievous hurt. hurt only are designated as grievous :—

*First.*—Emasculation

*Secondly.*—Permanent privation of the sight of either eye.

*Thirdly.*—Permanent privation of the hearing of either ear.

*Fourthly.*—Privation of any member or joint.

*Fifthly.*—Destruction or permanent impairing of the powers of any member or joint.

*Sixthly.*—Permanent disfiguration of the head or face.

*Seventhly.*—Fracture or dislocation of a bone or tooth.

*Eighthly.*—Any hurt which endangers life, or which causes the sufferer to be, during the space of

twenty days, in severe bodily pain, or unable to follow his ordinary pursuits.

321. Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said "voluntarily to cause hurt."

322. Whoever voluntarily causes hurt, if he voluntarily causing grievous hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said "voluntarily to cause grievous hurt."

*Explanation.*—A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt if, intending or knowing himself to be likely to cause grievous hurt of a certain kind, he actually causes grievous hurt of that kind.

### *Illustration.*

A, intending or knowing himself to be likely permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's face, but which causes Z to be in severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

323. Whoever, except in the case provided for by section 334, voluntarily causes grievous hurt shall be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.

4. Whoever, except in the case provided for  
 by section 334, voluntarily causes  
 grievous hurt by means of any instru-  
 ment for shooting, stabbing, or  
 cutting, or any instrument which, used as a weapon  
 of offence, is likely to cause death, or by means of fire  
 or any heated substance, or by means of any poison  
 or any corrosive substance, or by means of any explo-  
 sive substance, or by means of any substance which  
 is deleterious to the human body to inhale, to  
 swallow, or to receive into the blood, or by means  
 of any animal, shall be punished with imprisonment  
 or description for a term which may extend to  
 seven years, or with fine, or with both.

5. Whoever, except in the case provided for  
 by section 335, voluntarily causes  
 grievous hurt, shall be punished  
 with imprisonment of either des-  
 cription for a term which may extend to seven years,  
 and shall also be liable to fine.

6. Whoever, except in the case provided for  
 by section 335, voluntarily causes  
 grievous hurt by means of any  
 instrument for shooting, stabbing,  
 or cutting, or any instrument  
 which, used as a weapon of offence, is likely to cause  
 death, or by means of fire or any heated substance,  
 or by means of any poison or any corrosive substance,  
 or by means of any explosive substance, or by means  
 of any substance which it is deleterious to the human  
 body to inhale, to swallow, or to receive into the  
 blood, or by means of any animal, shall be punished  
 with imprisonment or description for a term which  
 may extend to seven years, or with fine, or with both.

## 327. Whoever voluntarily causes hurt for

Voluntarily causing  
hurt to extort proper-  
ty, or to constrain to  
an illegal act.

purpose of extorting from  
sufferer, or from any person  
interested in the sufferer, any  
property or valuable security, or  
constraining the sufferer or any person interested  
such sufferer to do anything which is illegal  
which may facilitate the commission of an offence,  
shall be punished with imprisonment of either  
description for a term which may extend to ten years  
and shall also be liable to fine.

## 328. Whoever administers to, or causes to

Causing hurt by  
means of poison, &c.,  
with intent to com-  
mit an offence.

taken by, any person any po-  
ison or any stupefying, intoxicat-  
ing or unwholesome drug or other  
thing, with intent to cause  
to such person, or with intent to commit or to fa-  
cilitate the commission of an offence, or knowing  
it to be likely that he will thereby cause hurt, shall  
be punished with imprisonment of either description  
for a term which may extend to ten years  
and shall also be liable to fine.

## 329. Whoever voluntarily causes grievous

Voluntarily causing  
grievous hurt to ex-  
tort property, or to  
constrain to an illegal  
act.

for the purpose of extorting from  
the sufferer, or from any person  
interested in the sufferer, any  
property or valuable security,  
or constraining the sufferer or any  
person interested to do anything

which is illegal  
which may facilitate the com-  
mission of an offence,  
shall be punished with imprisonment  
of either description  
for a term which may extend to ten years, and shall  
also be liable to fine.

for a term which may extend to ten years, and shall  
also be liable to fine.

**330.** Whoever, voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore, or to cause the restoration of, any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

*Illustrations.*

(a) A, a police-officer, tortures Z in order to induce Z to confess that he committed a crime. A is guilty of an offence under this section.

(b) A, a police-officer, tortures B to induce him to point out where certain stolen property is deposited. A is guilty of an offence under this section.

(c) A, a revenue officer, tortures Z in order to compel him to pay certain arrears of revenue due from Z. A is guilty of an offence under this section.

(d) A, a zemindar, tortures a raiyat in order to compel him to pay his rent. A is guilty of an offence under this section.

**331.** Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interest-



ed in the sufferer to restore, or to cause the restoration of any property or valuable security, to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

332. Whoever voluntarily causes hurt to any

Voluntarily causing hurt to deter public servant from his duty. person being a public servant, in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

333. Whoever voluntarily causes grievous

Voluntarily causing grievous hurt to deter public servant from his duty to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person, in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

334. Whoever voluntarily causes hurt on

Voluntarily causing hurt on provocation. and sudden provocation, if he neither intends nor knows his

be likely to cause hurt to any person other than a person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

335. Whoever voluntarily causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to four years, or with fine which may extend to two thousand rupees, or with both.

*Explanation*—The last two sections are subject to the same provisos as exception 1, section 300.

336. Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

337. Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

338. Whoever causes grievous hurt to any

Causing grievous hurt by act endangering life or personal safety of others by doing any act so rashly or negligently as to endanger man life or the personal safety of others shall be punished

imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

*Of Wrongful Restraint and Wrongful Confinement.*

339. Whoever voluntarily obstructs any person

Wrongful restraint. so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said to wrongfully to restrain that person.

*Exception.*—The obstruction of a private way over land or water, which a person, in good faith believes himself to have a lawful right to obstruct is not an offence within the meaning of this section.

*Illustration.*

A obstructs a path along which Z has a right to pass not believing in good faith that he has a right to obstruct path Z is thereby prevented from passing A wrongfully restrains Z

340. Whoever wrongfully restrains any person

Wrongful confinement. in such a manner as to prevent that person from proceeding beyond certain circumscribing limits is said to "wrongfully to confine" that person.

*Illustrations.*

(a) A causes Z to go within a walled space, and locks the door Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z

A places men with fire-arms at the outlets of a building and tells Z that they will fire at Z if Z attempts to enter the building. A wrongfully confines Z.

41. Whoever wrongfully restrains any person in such a manner as to prevent him from pursuing his lawful business or to cause him loss of honour or respect shall be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to five hundred rupees, or with both.

42. Whoever wrongfully confines any person in such a manner as to prevent him from pursuing his lawful business or to cause him loss of honour or respect shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees or with both.

43. Whoever wrongfully confines any person in such a manner as to prevent him from pursuing his lawful business or to cause him loss of honour or respect for three days or more shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

44. Whoever wrongfully confines any person in such a manner as to prevent him from pursuing his lawful business or to cause him loss of honour or respect for ten days or more shall be punished with imprisonment of either description for a term which may extend to three years, and shall be liable for costs.

45. Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to three years, in addition to any term of imprisonment which he may be liable under any other section of this chapter.

346. Whoever wrongfully confines any per-

Wrongful confine-  
ment in secret.

in such manner as to indicate  
intention that the confinement

of such person may not be known to any per-  
son interested in the person so confined, or to any  
public servant, or that the place of such con-  
finement may not be known to, or discovered by  
any such person or public servant as hereinafter  
mentioned, shall be punished with imprisonment of  
either description for a term which may extend to  
two years, in addition to any other punishment  
which he may be liable for such wrongful confine-  
ment.

347. Whoever wrongfully confines any person

Wrongful confine-  
ment to extort proper-  
ty or constrain to ille-  
gal act.

for the purpose of extorting from  
the person confined, or from any  
person interested in the person  
confined, any property or val-  
uable security, or of constraining the person confined

or any person interested in such person, to do any  
thing illegal, or to give any information which will  
facilitate the commission of an offence, shall be  
punished with imprisonment of either description for a  
term which may extend to three years, and shall also  
be liable to fine.

348. Whoever wrongfully confines any person

Wrongful confine-  
ment to extort confes-  
sion or compel restora-  
tion of property.

for the purpose of extorting from  
the person confined, or any per-  
son interested in the person con-  
fined, any confession or any in-  
formation which may lead to the detection of an

offence or misconduct, or for the purpose of constrain-  
ing the person confined, or any person interested in  
the person confined, to restore, or to cause the restora-  
tion of, any property or valuable security, or to

isfy any claim or demand, or to give information which may lead to the restoration of any property or enable security, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

*Of Criminal Force and Assault.*

**349.** A person is said to use force to another if he causes motion, change of motion, or cessation of motion that other, or if he causes to any substance such motion, or change of motion or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling :

Provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, cessation of motion, in one of the three ways hereinafter described :—

*First.*—By his own bodily power.

*Secondly.*—By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part or on the part of any other person.

*Thirdly.*—By inducing any animal to move, to change its motion, or to cease to move.

**350.** Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that, by the use of such force, he will cause injury, fear, or an-

- annoyance to the person to whom the force is used, said to use criminal force to that other.

### Illustrations.

(a) Z is sitting in a moored boat on a river

on at  
force  
order  
know

jury, fear, or annoyance to Z, A has used criminal force to Z.

(b) Z is riding in a chariot. A lashes Z's horse thereby causes them to quicken their pace. Here caused change of motion to Z by including the same change their motion. A has therefore used force to Z if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, A has used criminal force to Z.

(c) Z is riding in a palanquin. A intending to seize the pole, and stop the palanquin. Here A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, A has used criminal force to Z.

(d) A intending to assault Z in the street. A has, by using force to Z, without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, he has used criminal force to Z.

(e) A throws a stone intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, that it will strike water, and dash up the water against Z.

s, or something carried by Z. Here, if the throwing stone produce the effect of causing any substance to into contact with X or Z's clothes, A has used force and if he did so without Z's consent, intending there-injure, frighten, or annoy Z, he has used criminal to Z.

) A intentionally pulls up a woman's veil. Here A and if he does so without ing it to be likely that he annoy her, he has used

yance to Z, A has used criminal force

h) A incites a dog to spring upon Z without Z's con- Here, if A intends to cause injury, fear, or annoy- to Z, he uses criminal force to Z

**351.** Whoever makes any gesture or any pre-  
 assault, preparation, intending or knowing  
 it to be likely that such gesture  
 preparation will cause any person present to  
 apprehend that he who makes that gesture or pre-  
 paration is about to use criminal force to that person,  
 said to commit an assault

*Explanation*—Mere words do not amount to an  
 assault. But the words which a person uses may  
 give to his gestures or preparations such a meaning  
 may make those gestures or preparations amount  
 an assault.



*Illustrations.*

(a) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to strike Z. A has committed an assault.

(b) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to strike Z. A has committed an assault upon Z.

(c) A takes up a stick, saying to Z, "I will give you a beating." Here, though the words used by A could in some cases amount to an assault, and though the mere gesture unaccompanied by any other circumstances might not amount to an assault, the gesture explained by the words amounts to an assault.

### 352. Whoever assaults or uses criminal force

Punishment for assault or criminal force otherwise than on grave provocation, any person otherwise than grave and sudden provocation given by that person shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

*Explanation* — Grave and sudden provocation will not mitigate the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence; or

if the provocation is given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant; or

if the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence is a question of fact.

Whoever assaults or uses criminal force  
 or criminal force to any person being a public  
 officer or a public servant in the execution of his  
 duty as such public servant, or  
 with intent to prevent or deter  
 any person from discharging his duty as such public  
 servant or in consequence of anything done, or  
 to be done, by such person in the lawful  
 discharge of his duty, shall be  
 punished with imprisonment for  
 fine,

Whoever assaults or uses criminal force to  
 or criminal force to any woman, intending to out-  
 rage, or knowing it to be likely  
 that he will thereby outrage, her  
 modesty, shall be punished with  
 imprisonment of either description for a term which  
 may extend to two years, or with fine, or with both.

Whoever assaults or uses criminal force to  
 or criminal force to any person on grave and sudden pro-  
 vocation given by that person,  
 shall be punished with imprisonment  
 of either description for a term which may  
 extend to two years, or with fine, or with both.

Whoever assaults or uses criminal force to  
 or criminal force to any person in attempting to com-  
 mit theft on any property which  
 that person is then wearing or  
 carrying shall be punished with  
 imprisonment of either descrip-  
 tion for a term which may extend to two years, or  
 with fine, or with both.

**357. Whoever assaults or uses criminal force**

Assault or criminal force in attempt wrongfully to confine person.

any person in attempting wrongfully to confine that person shall be punished with imprisonment of either description for a term

which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

**358. Whoever assaults or uses criminal force**

Assault or criminal force on grave provocation

to any person on grave and sudden provocation given by that person shall be punished with

simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

*Explanation* —The last section is subject to the same explanation as section 352.

*Of Kidnapping, Abduction, Slavery, and Forced Labour*

**359. Kidnapping is of two kinds: kidnapping**

Kidnapping

from British India, and kidnapping from lawful guardianship.

**360. Whoever conveys any person beyond the**

Kidnapping from British India

limits of British India without the consent of that person, or

of some person legally authorized to consent on behalf of that person, is said to kidnap that person from British India.

**361. Whoever takes or entices any minor**

Kidnapping from lawful guardianship

from fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, out of the

keeping of the lawful guardian of such minor person of unsound mind, without the consent of that guardian, is said to kidnap such minor or person from lawful guardianship.

*Explanation.*—The words “lawful guardian” in this section include any person lawfully entrusted with the care or custody of such minor or other person.

*Exception.*—This section does not extend to the case of any person who, in good faith, believes himself to be the father of an illegitimate child, or who, in good faith, believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

362. Whoever by the force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.

363. Whoever kidnaps any person from British India or from lawful guardianship shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

364. Whoever kidnaps or abducts any person in order that such person may be murdered, or may be so disposed of as to be put in danger of being murdered, shall be punished with transportation or life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

### *Illustrations.*

(a) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(b) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(c) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(d) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(e) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(f) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(g) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(h) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(i) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(j) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(k) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(l) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(m) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(n) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(o) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(p) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(q) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(r) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(s) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(t) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(u) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(v) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(w) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(x) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(y) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

(z) A kidnaps B in order that he may be murdered, or may be so disposed of as to be put in danger of being murdered. A has committed the offence defined in this section.

365. Whoever kidnaps or abducts any per-

Kidnapping or abducting with intent secretly and wrongfully to confine person with intent to cause that person to be secretly and wrongfully confined shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

366. Whoever kidnaps or abducts any woman

Kidnapping or abducting woman to compel her marriage, &c. with intent that she may be compelled, or knowing it to be likely that she will be compelled to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

367. Whoever kidnaps or abducts any person in

Kidnapping or abducting in order to subject person to grievous hurt, slavery, &c. order that such person may be subjected, or may be so disposed of as to be put in danger of his or her life or of grievous hurt to such person shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

368. Whoever, knowing that any person has

Wrongfully concealed or keeping in concealment a kidnapped or abducted person. been kidnapped or has been abducted, wrongfully conceals or confines such person, shall be punished in the same manner as if he had kidnapped or abducted such person with

same intention or knowledge, or for the same purpose as that with or for which he conceals or releases such person in confinement.

69. Whoever kidnaps or abducts any child under the age of ten years with the intention of taking dishonestly any moveable property from the person of such child shall be punished with imprisonment of either description for a term which may extend to seven years, and shall be liable to fine.

70. Whoever imports, exports, removes, buys, sells, or disposes of any person or disposing of any person as a slave, or accepts, receives, or detains against his will, any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to

371. Whoever habitually imports, exports, removes, buys, sells, traffics, or deals in slaves, shall be punished with transportation for life, or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

372. Whoever sells, lets to hire, or otherwise disposes of any minor under the age of sixteen years, with intent that such minor shall be employed or used for the purpose of prostitution, or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which

may extend to ten years, and shall also be liable to fine.

373. Whoever buys, hires, or otherwise obtains possession of, any minor under the age of sixteen years, with intent that such minor should be employed or used for the purpose of prostitution for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished by imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

374. Whoever unlawfully compels any person to labour against the will of that person shall be punished by imprisonment of either description for a term which may extend to one year, or with fine, or with both.

### *Of Rape.*

375. A man is said to commit "rape" if he has sexual intercourse with a woman under circumstances falling within any of the five following descriptions:—

*First.*—Against her will.

*Secondly.*—Without her consent.

*Thirdly.*—With her consent, when her consent has been obtained by putting her in fear of death or of hurt.

*Fourthly.*—With her consent, when she knows that he is not her husband, and that her consent is given because she believes that he is her husband.

to whom she is, or, believes herself to be, law-married.

*5thly.*—With or without her consent, when she is under twelve years of age.

*Explanation.*—Penetration is sufficient to constitute the sexual intercourse necessary to the offence.

*Exception.*—Sexual intercourse by a man with his own wife, the wife not being under twelve years of age, is not rape.

76. Whoever commits rape shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

#### *Of Unnatural Offences.*

77. Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or child, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

*Explanation.*—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

### CHAPTER XVII.

#### OF OFFENCES AGAINST PROPERTY.

##### *Of Theft.*

78. Whoever, intending to take dishonestly any moveable property out of the possession of any person



without that person's consent, moves that property in order to such taking, is said to commit theft.

*Explanation 1.*—A thing, so long as it is attached to the earth, not being moveable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

*Explanation 2.*—A moving, effected by the same act which effects the severance, may be a theft.

*Explanation 3.*—A person is said to cause a thing to move by removing an obstacle which prevented it from moving, or by separating it from any other thing, as well as by actually moving it.

*Explanation 4.*—A person who by any means causes a thing to move, without the consent of the owner, is said to commit theft.

*Explanation 5.*—The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority, either express or implied.

### Illustrations.

(a) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession without Z's consent. Here, as soon as A has severed the tree in order to such taking, he has committed theft.

(b) A moves Z's dog with the intention of dishonestly taking the dog out of Z's possession without Z's consent. Here, as soon as A has moved the dog in order to such taking, he has committed theft.

(c) A meets a bullock carrying a box of treasure. A drives the bullock in a certain direction, in order that B

y dishonestly take the treasure. As soon as the bullock  
to move, A has committed theft of the treasure

) A, being Z's servant, and entrusted by Z with the  
of Z's plate, dishonestly runs away with the plate,  
at Z's consent. A has committed theft.

Z, going on a journey, entrust his plate to A, the  
of a warehouse, till Z shall return. A carries the  
to a goldsmith, and sells it. Here the plate was not  
possession. It could not therefore be taken out of  
possession, and A has not committed theft, though he  
have committed criminal breach of trust.

A finds a ring belonging to Z on a table in the house  
Z occupies. Here the ring is in Z's possession, and,  
dishonestly removes it, A commits theft.

A finds a ring lying on the high road, not in the  
possession of any person. A, by taking it, commits no theft,  
but he may commit criminal misappropriation of pro-

A sees a ring belonging to Z lying on a table in Z's  
house. Not venturing to misappropriate the ring imme-  
diately for fear of search and detection, A hides the ring

) A delivers his watch to Z, a jeweller, to be regulated.  
Z carries it to his shop. A, not owing the jeweller any debt  
such which the jeweller might lawfully detain the watch as a  
pledge, enters the shop openly, takes his watch by force  
from Z's hand, and carries it away. Here A, though he  
has committed criminal trespass and assault, has not  
committed theft, inasmuch as what he did was not done  
dishonestly.

) If A owes money to Z for repairs to his watch, and  
Z carries it to his shop, and A, not owing the jeweller any  
debt such which the jeweller might lawfully detain the watch  
as a pledge, enters the shop openly, takes his watch by force  
from Z's hand, and carries it away, A, though he has  
committed criminal trespass and assault, has not committed  
theft, inasmuch as what he did was not done dishonestly.

(k) Again, if A, having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he had borrowed on the watch, he commits theft, though the watch is his own property, inasmuch as he takes it dishonestly.

(l) A takes an article belonging to Z out of Z's possession, without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its production. Here A takes dishonestly. A has therefore committed theft.

(m) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent, for the purpose merely of reading it, and with the intention of returning it. Here it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

(n) A asks charity from Z's wife. She gives A money, food, and clothes, which A knows to belong to Z, her husband. Here it is probable that A may conceive that Z's wife is authorized to give away alms. If this was A's impression, A has not committed theft.

(o) A is the paramour of Z's wife. She gives A valuable property which A knows to belong to her husband Z, and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.

..... belonging to Z  
 ..... it of B & C  
 ..... he does not

commit theft

**379** Whoever commits theft shall be punished

Punishment for theft. with imprisonment of either description for a term which may extend to three years, or with fine or with both.

**380.** Whoever commits theft in any building,

Theft in dwelling-house, &c tent, or vessel, which building, tent, or vessel is used as a habitation,

well, or for the custody of property, shall be punished with imprisonment of either description or a term which may extend to seven years, and shall also be liable to fine.

**381.** Whoever, being a clerk or servant, or being employed in the capacity of  
 Theft, by clerk or servant, of property in possession of master  
 or

employer, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**382.** Whoever commits theft, having made preparation for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

### *Illustrations.*

(a) A commits theft of property in Z's possession, and, in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

(b) A picks Z's pocket, having posted several of his comrades to guard him in order that they may constrain Z if he attempts to escape, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

*Of Extortion.*

**383.** Whoever intentionally puts any person in fear of any injury to that person or to any other, and thereby

dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed, which may be converted into a valuable security, commits "extortion."

### Illustrations.

(a) A threatens to publish a defamatory libel concerning Z unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

(b) A threatens Z that he will keep Z's child in wrongful confinement unless Z will sign and deliver to A a promissory note binding Z to pay certain money to A. Z signs and delivers the note. A has committed extortion.

[illegible]

(d) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper, and deliver it to A. Z signs and delivers the paper to A. If the paper so signed may be converted into a security, A has committed extortion.

**384** Whoever commits extortion shall be punished by imprisonment of either description for a term which may extend to three years, or with fine, or with both.

385. Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear, of any injury, shall be

nished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**386.** Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**387.** Whoever, in order to the committing of extortion, puts or attempts to put any person, in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**388.** Whoever commits extortion by putting any person in fear of an accusation against that person or any other, of having committed, or attempted to commit, any offence punishable with death, or with transportation for life, or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be one punishable under section 377 of this Code, may be punished with transportation for life.

389. Whoever, in order to the committing of

Putting person in fear of accusation of offence in order to commit extortion.

extortion, puts, or attempts to put, any person in fear of accusation against that person or any other, of having committed,

committed, or attempted to commit, an offence punishable with death or with transportation for life, or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if the offence may be punished under section 377 of this Code, may be punished with transportation for life.

### *Of Robbery and Dacoity.*

Robbery.

390. In all robbery there is either theft or extortion.

Theft is "robbery," if, in order to the committing of the theft, or in carrying

When theft is robbery. carrying the theft, or in carrying away, or attempting to carry away, property obtained by the theft, the offender, for that end, voluntarily causes, or attempts to cause, to any person, death, or hurt, or wrongful restraint, or fear of instant death, or of instant hurt, or of instant wrongful restraint.

Extortion is "robbery," if the offender, at the time of committing the extortion, is in the presence of the

When extortion is robbery. person put in fear and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person so put in fear to deliver up the thing extorted.

ination.—The offender is said to be present sufficiently near to put the other person in instant death, of instant hurt, or of instant restraint.

### *Illustrations.*

holds W down, and fraudulently takes Z's money  
consent Here A  
is committing of  
restraint to Z.

meets Z on the high road, shows a pistol, and  
Z's purse. Z, in consequence, surrenders his purse.  
A extorted the purse from Z by putting him in  
instant hurt, and being, at the time of committing  
action, in his presence A has therefore committed

meets Z and Z's child on the high road A takes  
and threatens to fling it down a precipice, unless  
his purse Z, in consequence, delivers his purse.  
A extorted the purse from Z by causing Z to be  
instant hurt to the child who is there present. A  
therefore committed robbery on Z

obtains property from Z by saying "Your child is  
in the hands of my gang, and will be put to death unless  
you give us ten thousand rupees" This is extortion, and,  
as such, but it is not robbery, unless Z is put  
to the instant death of his child

When five or more persons conjointly  
commit, or attempt to commit, a  
robbery, or, where the whole  
of persons conjointly committing, or attempt-  
ing to commit, a robbery, and persons present and  
aiding such commission or attempt, amount to five or  
more persons so committing, attempting, or  
aiding is said to commit "dacoity."



**392.** Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and if robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

**393.** Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

**394.** If any person, in committing, or in attempting to commit, robbery, voluntarily causes hurt, such person, whether he commits robbery or not, and any other person jointly concerned in committing, or attempting to commit, robbery, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

**395.** Whoever commits dacoity shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

**396.** If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

**397.** If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or

cause death or grievous hurt to any person, imprisonment with which such offender shall be liable shall not be less than seven years.

If, at the time of attempting to commit robbery or dacoity, the offender to commit or dacoity is armed with any deadly weapon, the imprisonment with which such offender shall be liable shall not be less than seven years.

Whoever makes any preparation for committing dacoity shall be punished with rigorous imprisonment for which may extend to ten years, and shall also be liable to fine.

Whoever, at any time after the passing of this Act, shall belong to a gang of persons associated for the purpose of habitually committing shall be punished with transportation for with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to

Whoever, at any time after the passing of this Act, shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang of thugs or dacoits, shall be punished

Whoever, at any time after the passing of this Act, shall be one of five or more persons assembled for the purpose of committing dacoity,

shall be punished with rigorous imprisonment for term which may extend to seven years, and also be liable to fine

### *Of Criminal Misappropriation of Property*

**403** Whoever dishonestly misappropriates or converts to his own use any moveable property shall be punished with imprisonment of either description for term which may extend to two years, or with fine or with both.

#### *Illustrations.*

(a) A takes property belonging to Z out of Z's possession, in good faith, believing, at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake dishonestly appropriates the property to his own use, he is guilty of an offence under this section.

(b) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent. Here, if A was under the impression that the book was his own, he is not guilty of an offence under this section. But, if A knows that the book is Z's, he is guilty of an offence under this section.

offence under this section.

(c) A and B being joint-owners of a horse, A takes the horse out of B's possession, intending to use it. Here, if A has a right to use the horse, he does not dishonestly misappropriate it. But, if A sells the horse, and appropriates the whole proceeds to his own use, he is guilty of an offence under this section.

*Explanation 1.*—A dishonest misappropriation for a time only is a misappropriation within the meaning of this section.

#### *Illustration.*

A finds a Government promissory note belonging to B, bearing a blank endorsement. A, knowing that the note

to Z, pledges it with a banker as a security for a loan, pending at a future time to restore it to Z. A has committed an offence under this section.

*Explanation 2.*—A person who finds property in the possession of any other person, and takes possession of it for the purpose of protecting it for, or returning it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence, although he is guilty of the offence above defined if he knows or has reason to believe that the owner is entitled to the property, and has kept the property a reasonable time to enable the owner to claim it.

What are reasonable means, or what is a reasonable time, in such a case is a question of fact.

It is not necessary that the finder should know the owner of the property, or that any particular person is the owner of it; it is sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believes that the owner cannot be found.

### *Illustrations.*

1. A finds a rupee on the high road, not knowing to whom the rupee belongs. A picks up the rupee. Here A has committed the offence defined in this section.

2. A finds a letter on the road, containing a bank-note. In the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is not guilty of an offence under this section.

3. A finds a cheque payable to bearer. He can form a conjecture as to the person who has lost the cheque, and the name of the person who has drawn the cheque upon it. A knows that this person can direct him to the person in whose favour the cheque was drawn. A appropriates

the cheque without attempting to discover the owner. A is guilty of an offence under this section.

(d) A sees B drop his purse with money in it. A picks up the purse with the intention of restoring it to B, and afterwards appropriates it to his own use. A has committed an offence under this section.

(e) A finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to B and appropriates it to his own use. A is guilty of an offence under this section.

(f) A finds a valuable ring, not knowing to whom it belongs. A sells it immediately without attempting to discover the owner. A is guilty of an offence under this section.

#### 404. Whoever dishonestly misappropriates or converts to his own use property knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not previously

Dishonest misappropriation of property possessed by a deceased person at the time of his death.

been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and, if the offender, at the time of such person's decease, was employed by him as a clerk or servant, such imprisonment may extend to seven years.

#### *Illustration.*

B dies in possession of furniture and money. His servant A, before the money comes into the possession of the person entitled to such possession, dishonestly misappropriates it. A has committed the offence defined in this section.

#### *Of Criminal Breach of Trust.*

#### 405. Whoever, being in any manner entrusted

Criminal breach of trust. with property, or with the possession or dominion over property, dishonestly

le touching the discharge of such trust, or suffers any other person so to do, commits a criminal breach of trust."

### *Illustrations.*

A, being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the property according to the will, and appropriates them to his own use. A has committed criminal breach of trust.

A is a warehouse-keeper. Z, going on a journey, deposits his furniture to A under a contract that it shall be returned on payment of a stipulated sum for warehouse-keeping. A dishonestly sells the goods. A has committed criminal breach of trust.

A, residing in Calcutta, is agent for Z residing at Bombay. There is an express or implied contract between A and Z that all sums remitted by Z to A shall be invested according to Z's direction. Z remits a lakh of rupees with directions to A to invest the same in Company's shares. A dishonestly disobeys the directions, and employs the money in his own business. A has committed criminal breach of trust.

But if A, in the last illustration, not dishonestly, but in good faith, believing that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's directions and buys shares in the Bank of Bengal instead of buying Company's paper, here, though Z suffers loss, and should be entitled to bring a civil action against A on account of that loss, yet A, not having acted dishonestly, has not committed criminal breach of trust.

A, a revenue-officer, is entrusted with public money, either directed by law or bound by a contract, express or implied, with the Government, to pay into a cer-

tain treasury all the public money which he holds honestly appropriates the money A has committed a criminal breach of trust.

(f) A, a carrier, is entrusted by Z with property carried by land or by water. A dishonestly appropriates the property. A has committed criminal breach of trust.

**406.** Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**407.** Whoever, being entrusted with property as a carrier, wharfinger, or warehouse-keeper, or house-keeper, commits criminal breach of trust in respect of such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**408.** Whoever, being a clerk or servant, or employed as a clerk or servant, and being in any manner entrusted with property in such capacity with property or with any dominion over property, commits criminal breach of trust in respect of that property shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

**409.** Whoever, being any manner entrusted with property, or with any dominion over property, in the capacity of a public servant, or in the way of his business as a banker, merchant, factor, broker, attorney, or agent, commits criminal breach of trust in respect of that

property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

*Of the Receiving of Stolen Property.*

**410.** Property the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated, in respect of which criminal breach of trust has been committed, is designated as stolen property, whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without British India. But, if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

**411.** Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**412.** Whoever dishonestly receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission of dacoity, or dishonestly receives from a person whom he knows or has reason to believe to belong, or to have belonged, to a gang of dacoits, property which he knows or has reason to believe to have been stolen, shall be punished with transportation



for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

413. Whoever habitually receives or deals in stolen property, which he knows or has reason to believe to be stolen property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

414. Whoever voluntarily assists in concealing or disposing of, or making any use of, property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

### *Of Cheating*

415. Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to do or omit any act which he would not do or omit if he were not so deceived, and which act or omission causes, or is likely to cause, damage or harm to that person in body, mind, reputation, or property, is said to "cheat."

*Explanation.*—A dishonest concealment of facts is a deception within the meaning of this section.

### *Illustrations.*

(a) A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces

him have on credit goods for which he does not mean to pay. A cheats.

A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.

A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.

A, by tendering in payment for an article a bill on which A keeps no money, and by which A knows that the bill will be dishonoured, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.

A, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives Z and thereby dishonestly induces Z to lend money. A cheats.

A intentionally deceives Z into a belief that A means to pay any money that Z may lend to him, and thereby dishonestly induces Z to lend him money, A not intending to pay it. A cheats.

A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo-plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats. But, if A, at the time of obtaining the money, intends to deliver the indigo-plant, and afterwards breaks the contract, and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.

A sells and conveys an estate to B. A, knowing that, in consequence of such sale, he has no right to the property, mortgages the same to Z without disclosing the

fact of the previous sale and conveyance to B, and receive the purchase or mortgage-money from Z. A cheats

**416.** A person is said to "cheat by personation" if he cheats by pretending to be some other person, or by falsely substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

*Explanation.*—The offence is committed whether the individual personated is a real or imaginary person.

### *Illustrations.*

(a) A cheats by pretending to be a certain rich baron of the same name. A cheats by personation.

(b) A cheats by pretending to be B, a person who has ceased to exist. A cheats by personation.

**417.** Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

*Cheating with knowledge that wrongful loss may be caused to a person whose interest offender is bound to protect.* he is likely thereby to cause wrongful loss to a person whose interest in the transaction which the cheating relates to was bound, either by law or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**418.** Whoever cheats with knowledge that wrongful loss may be caused to a person whose interest offender is bound to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**419.** Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**420.** Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter, or destroy who -  
 inducing and dishonestly inducing a delivery of property.  
 term which may extend to seven years, and shall be liable to fine.

*Of Fraudulent Deeds and Dispositions of Property.*

**421.** Whoever dishonestly or fraudulently removes, conceals, or delivers to any person, or transfers or causes to be transferred, to any person, without adequate consideration, any property, intending thereby to prevent, or knowing it to be likely that will thereby prevent, the distribution of that property according to law among his creditors or the creditors of any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**422.** Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of such debts or the debts of such other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

### 423. Whoever dishonestly or fraudulently

Dishonest or fraudulent execution of deed of transfer containing a false statement of consideration.

executes, or becomes a party to any deed or instrument which purports to transfer or create to any charge any property or any interest therein, and which

contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

### 424. Whoever dishonestly or fraudulently

Dishonest or fraudulent removal or concealment of property

conceals or removes any property from himself or any other person dishonestly or fraudulently

shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both.

### Of Mischief.

### 425. Whoever, with intent to cause, or knowing that he is likely to

Mischief

cause, or knowing that he is likely to cause, wrongful loss or damage to

the public, or to any person, causes the destruction of any property, or any such charge in any property or in the situation thereof, as destroys or diminishes its value or utility, or affects it injuriously, commits "mischief."

*Explanation I.*—It is not essential to the commission of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause

nows that he is likely to cause, wrongful loss or damage to any person by injuring any property other it belongs to that person or not.

*Explanation 2.*—Mischief may be committed by act affecting property belonging to the person who commits the act, or to that person and others jointly.

### *Illustrations.*

(a) A voluntarily burns a valuable security belonging to Z intending to cause wrongful loss to Z. A has committed mischief.

(b) A introduces water into an ice-house belonging to Z and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.

(c) A voluntarily throws into a river a ring belonging to Z with the intention of thereby causing wrongful loss to Z. A has committed mischief.

(d) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.

(e) A, having insured a ship, voluntarily causes the same to be cast away, with the intention of causing damage to the underwriters. A has committed mischief.

(f) A causes a ship to be cast away, intending thereby to cause damage to Z, who has lent money on bottomry on the ship. A has committed mischief.

(g) A, having joint-property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.

(h) A causes cattle to enter upon a field belonging to Z, intending to cause, and knowing that he is likely to cause, damage to Z's crop. A has committed mischief.

**426.** Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

**427.** Whoever commits mischief, and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**428.** Whoever commits mischief by killing or maiming animal of the value of ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**429.** Whoever commits mischief by killing or maiming cattle &c., of any value, or any animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

**430.** Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, a diminution of the supply of water for agricultural purposes, or for food or drink for human beings, or for animals

property, or for cleanliness, or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with

Whoever commits mischief by doing any act which renders, or which he knows to be likely to render, any public road, bridge, navigable channel, natural or artificial, more or less safe for travelling or conveying shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, an inundation or an obstruction to any public drainage attended with damage shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with

Whoever commits mischief by destroying or moving any light-house or other light used as a sea-mark, or any sea-mark or buoy or other thing placed as a guide for navigation, or by any act which renders any such light-house, sea-mark, buoy, or other such thing as less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.



#### 434. Whoever commits mischief by destroy-

Mischief by destroy-  
ing or moving, &c., a  
land-mark fixed by  
public authority.

or moving any land-mark  
by the authority of a  
servant, or by any act  
renders such land-mark less

ful as such, shall be punished with imprisonment  
either description for a term which may extend  
one year, or with fine, or with both.

#### 435. Whoever commits mischief by fire or

Mischief by fire or  
explosive substance  
with intent to cause  
damage to amount of  
one hundred or (in case  
of agricultural pro-  
duce) ten rupees

explosive substance, intent  
to cause, or knowing it is  
likely that he will thereby  
damage to any property to  
amount of one hundred ru-  
pees or upwards, or (where the

property is agricultural produce) ten rupees or  
upwards, shall be punished with imprisonment  
either description for a term which may extend  
seven years, and shall also be liable to fine.

#### 436. Whoever commits mischief by fire or

Mischief by fire or  
explosive substance  
with intent to destroy  
house, &c

explosive substance, intent  
to cause, or knowing it is  
likely that he will thereby  
the destruction of any building

which is ordinarily used as a place of worship,  
as a human dwelling, or as a place for the custody  
of property, shall be punished with transportation  
for life, or with imprisonment of either description  
for a term which may extend to ten years, and  
also be liable to fine.

#### 437. Whoever commits mischief to any deck

Mischief with intent  
to destroy or make un-  
safe a decked vessel or  
one of 20 tons burden.

vessel, or any vessel of a tonnage  
of twenty tons or upwards,  
intending to destroy or render  
unsafe, or knowing it to be likely

he will thereby destroy or render unsafe, that  
 el, shall be punished with imprisonment of either  
 ription for a term which may extend to ten years,  
 shall also be liable to fine.

**438.** Whoever commits, or attempts to commit,  
 punishment for the mischief described in  
 on 437, commit- by fire or explosive  
 tance, by fire or any explosive sub-  
 stance, such mischief as is de-  
 scribed in the last preceding sec-  
 tion, shall be punished with  
 transportation for life, or with  
 imprisonment of either description for a term which  
 y extend to ten years, and shall also be liable to  
 2.

**439.** Whoever intentionally runs any vessel  
 punishment for in- aground or ashore, intending to  
 tionally running commit theft of any property  
 aground or ashore contained therein, or to dis-  
 1 intent to commit honestly misappropriate any such  
 t, &c. property, or with intent that such  
 theft or misappropriation of property may be com-  
 mitted, shall be punished with imprisonment of either  
 ription for a term which may extend to ten years,  
 d shall also be liable to fine.

**440.** Whoever commits mischief, having made  
 mischief committed preparation for causing to any  
 er preparation made person death, or hurt, or wrong-  
 causing death or ful restraint, or fear of death,  
 t, or of hurt, or of wrongful res-  
 aint, shall be punished with imprisonment of either  
 ription for a term which may extend to five  
 ars, and shall also be liable to fine.

### *Of Criminal Trespass.*

**441.** Whoever enters into or upon property in  
 Criminal trespass. the possession of another with  
 intent to commit an offence, or

to intimidate, insult, or annoy any person in possession of such property,

or, having lawfully entered into or upon property, unlawfully remains there with intent to intimidate, insult, or annoy any such person, or with intent to commit an offence,

is said to commit, "criminal trespass"

442. Whoever commits criminal trespass

*House-trespass.* Entering into or remaining in any building, tent, or vessel used as a human dwelling, or any building used as a place for worship, or as a place for the custody of property, is said to commit "house-trespass."

*Explanation.*—The introduction of any part of the criminal trespasser's body is entering and is sufficient to constitute house-trespass.

443. Whoever commits house-trespass, but

*Lurking house-trespass.* taken precautions to conceal his house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent, or vessel which is the object of the trespass, is said to commit "lurking house-trespass."

444. Whoever commits lurking house-trespass

*Lurking house-trespass by night.* after sunset and before sunrise, is said to commit "lurking house-trespass by night."

445. A person is said to commit "house-breaking"

*House-breaking.* who commits house-trespass, if he effects his entry into the house or any part of it in any of the ways hereinafter described; or if, being in the house or any part of it for the purpose of committing an offence, or, having committed an offence there

the house or any part of it in any of such six  
that is to say :—

*1st.*—If he enters or quits through a passage  
by himself, or by any abettor of the house-  
s, in order to the committing of the house-  
s.

*2ndly.*—If he enters or quits through any  
not intended by any person other than him-  
r an abettor of the offence, for human en-  
; or through any passage to which he has  
ed access by scaling or climbing over any wall  
lding.

*3rdly.*—If he enters or quits through any pass-  
which he or any abettor of the house-trespass  
ened, in order to the committing of the house-  
ss, by any means by which that passage was  
tended by the occupier of the house to be  
l.

*4thly.*—If he enters or quits by opening any  
in order to the committing of the house-trespass,  
order to the quitting of the house after a house-  
ss

*5thly.*—If he effects his entrance or departure  
ing criminal force or committing an assault, or  
reatening any person with assault

*6thly.*—If he enters or quits by any passage  
he knows to have been fastened against such  
nce or departure, and to have been unfastened  
mself or by an abettor of the house-trespass.

*Explanation.*—Any out-house or building occu-  
with a house, and between which and such house  
is an immediate internal communication, is  
of the house within the meaning of this section.

*Illustrations.*

the ... hole in the ...  
ape ... d through

(b) A commits house-trespass by creeping into a port-hole between decks. This is house-breaking.

(c) A commits house-trespass by entering Z's through a window. This is house-breaking.

(d) A commits house-trespass by entering Z's through the door, having opened a door which was fast. This is house-breaking.

(e) A commits house-trespass by entering Z's through the door, having lifted a latch by putting a through a hole in the door. This is house-breaking.

(f) A finds the key of Z's house-door which Z had and commits house-trespass by entering Z's house, having opened the door with that key. This is house-breaking.

(g) Z is standing in his door-way. A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house-breaking.

(h) Z, the door-keeper of Y, is standing in Y's door. A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. This is house-breaking.

446. Whoever commits house-breaking by sunset and before sunrise at night to commit "house-breaking at night."

447. Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

448. Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

may extend to one year, or with fine which tend to one thousand rupees, or with both.

1. Whoever commits house-trespass in order to the committing of any offence punishable with death shall be punished with transportation for life, or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

2. Whoever commits house-trespass in order to the committing of any offence punishable with transportation for life shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

3. Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

4. Whoever commits house-trespass, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**453.** Whoever commits lurking house-trespass or house-breaking shall be

Punishment for lurking house-trespass or house-breaking

punished with imprisonment of either description for a term

which may extend to two years, and shall also be liable to fine.

**454.** Whoever commits lurking house-trespass or house-breaking in order

Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment

the committing of any offence shall be punishable with imprisonment of either description for a term

which may extend to three years and shall be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

**455.** Whoever commits lurking house-trespass or house-breaking, having made

Lurking house-trespass or house-breaking after preparation for hurt, assault, or wrongful restraint

preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for

putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**456.** Whoever commits lurking house-trespass by night, or house-breaking by

Punishment for lurking house-trespass or house-breaking by night

night, shall be punished with imprisonment of either description for a term which may

extend to three years, and shall also be liable to fine.

**457. Whoever commits lurking house-trespass**

lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.

imprisonment shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

**458. Whoever commits lurking house-trespass**

Lurking house-trespass or house-breaking by night after preparation for hurt, assault, wrongful restraint

by night or house-breaking by night having made preparation for causing hurt to any person or for assaulting any person, or, or wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

**459. Whoever, whilst committing lurking house-**

Grievous hurt caused whilst committing lurking house-trespass or house-breaking

trespass or house-breaking, causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**460 If, at the time of the committing of lurking**

All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them

ing house-trespass by night or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person joint-



ly concerned in committing such lurking house pass by night or house-breaking by night shall be punished with transportation for life, or with imprisonment of either description for a term which shall extend to ten years, and shall also be liable to fine

461. Whoever dishonestly, or with intent to commit mischief, breaks open any receptacle containing property, which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

462. Whoever, being entrusted with any closed receptacle which contains property, without having authority to open the same, dishonestly or with intent to commit mischief, breaks open that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CHAPTER XVIII.

OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

463. Whoever makes any false document or part of a document with intent to cause damage or injury to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud, or that fraud may be committed, commits forgery.

Making a false document. 464. A person is said to make a false document—

*First.*—Who dishonestly or fraudulently makes, signs, seals, or executes a document or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document or part of a document was made, signed, sealed, or executed by, or by the authority of, a person by whom or by whose authority he knows that it was not made, signed, sealed, or executed, or at a time at which he knows that it was not made, signed, sealed, or executed; or

*Secondly.*—Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part thereof, after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

*Thirdly.*—Who dishonestly or fraudulently causes any person to sign, seal, execute, or alter a document, knowing that such person, by reason of unsoundness of mind or intoxication, cannot, or that, by reason of deception practised upon him, he does not, know the contents of the document or the nature of the alteration.

### *Illustrations*

(a) A has a letter of credit upon B for Rs. 10,000 written by Z. A, in order to defraud B, adds a cipher to the 10,000, and makes the sum 1,00,000, intending that it may be believed by B that Z so wrote the letter. A has committed forgery.

(b) A, without Z's authority, affixes Z's seal to a document.

(c) A picks up a cheque on a banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand rupees. A commits forgery.

(d) A leaves with B, his agent, a cheque on a bank signed by A, without inserting the sum payable, and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand rupees for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand rupees. B commits forgery.

(e) A draws a bill of exchange on himself in the name of B, and B, with intent to defraud, takes up the bill, and signs it as if it were that of B. B commits forgery.

B is guilty of forgery.

(f) Z's will contains these words: "I direct that all my remaining property be equally divided between A, B, and C." A dishonestly scratches out B's name intending that it may be believed that the whole was left to himself and C. A has committed forgery.

(g) A endorses a Government promissory note, and makes it payable to Z or his order, by writing on the back the words "Pay to Z or his order," and signing the endorsement. B dishonestly erases the words, "Pay to Z or his order," and thereby converts the special endorsement into a blank endorsement. B commits forgery.

(h) A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.

(i) Z dictates his will to A. A intentionally writes down a different legatee from the legatee named by Z, and by representing to Z that he has prepared the will according to his instructions, induces Z to sign the will. A has committed forgery.

) A writes a letter, and signs it with B's name without

other persons. Here, as A made a false document in  
to induce Z to part with property, A has committed  
ry.

) A, without B's authority, writes a letter, and signs  
B's name, certifying to A's character, intending thereby  
tain employment under Z. A has committed forgery,  
such as he intended to deceive Z by the forged  
icate, and thereby to induce Z to enter into an ex-  
ed or implied contract for service.

*Explanation 1.*—A man's signature of his own  
may amount to forgery.

*Illustrations.*

) A signs his own name to a bill of exchange, intend-  
that it may be believed that the bill was drawn by an-  
person of the same name. A has committed forgery.

) A writes the word "accepted" on a bill of exchange

of forgery

) A picks up a bill of exchange payable to the order  
different person of the same name. A endorses the  
in his own name, intending to cause it to be believed  
it was endorsed by the person to whose order it was  
able. Here A has committed forgery.

(d) A purchases an estate and

be belie  
ure B,  
mits forg

(e) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors, and, in order to give a colour to the transaction, writes a promissory note binding himself to pay to C a sum for value received and antedates the note, intending that it may be believed to have been made before A was at the point of insolvency. A has committed forgery and the first head of the definition.

*Explanation 2*—The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his life-time, may amount to forgery.

*Illustration.*

A draws a bill of exchange upon a fictitious person, or fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. A counterfeit bill is a bill drawn by a person with intent to negotiate it. A counterfeit bill is a bill drawn by a person with intent to negotiate it.

465. Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

466 : Whoever forges a document purporting to be a record or proceeding of a Court of Justice, or a public servant in his official capacity, or to take judgment with intent to defraud, shall be imprisoned for a term not to exceed seven years, and shall also be fined.

467. Whoever forges a document which purports to be a valuable security or a will, or an authority to give authority to valuable security, rest, or dividends, or to receive or deliver any money, moveable property, or any document or receipt acknowledging an acquittance or moveable property or valuable security, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

468. Whoever commits forgery, intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

469. Whoever commits forgery, intending that the document forged shall be used for the purpose of harming the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

470. A false document made wholly or in part by forgery is designated a forged document.

471. Whoever fraudulently or dishonestly passing as genuine any document which he knows or has reason to believe is a forged document,

lieve to be a forged document shall be punished in the same manner as if he had forged such document.

**472. Whoever makes or counterfeits any seal, plate, or other instrument for**

Making or possessing counterfeit seal, &c., with intent to commit a forgery punishable under section 467.

making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under section 467 of this Code, or with such intent has in his possession any such seal, plate, or other instrument, knowing the same to be counterfeit, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**473. Whoever makes or counterfeits any seal, plate, or other instrument for**

Making or possessing counterfeit seal, &c., with intent to commit forgery punishable under section 467.

making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this chapter other than section 467, or with such intent has in his possession any such seal, plate, or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**474. Whoever has in his possession any document knowing the same to be**

Having possession of document described in section 466 or 467, knowing it to be forged, and intending to use it as genuine.

forged, and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document is one of the description mentioned in

ion 466 of this Code, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; if the document is one of the description mentioned in section 467, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

475. Whoever counterfeits upon or in the substance of any material any device or mark used for the purpose of authenticating any document described in section 467, or possesses counterfeit-marked material intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who, with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

476. Whoever counterfeits upon or in the substance of any material any device or mark used for the purpose of authenticating any document other than those described in section 467, or possesses counterfeit-marked material intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material upon, or in the substance of, which



any such device or mark has been counterfeited shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

477. Whoever fraudulently or dishonestly,

Fraudulent cancellation, destruction, &c., of will, authority to adopt, or valuable security.

with intent to cause damage or injury to the public or to a person, cancels, destroys, or defaces, or attempts to cancel, destroy, or deface, or secretes or attempts to secrete any document which is, or purports to be, a will or an authority to adopt a son, or any valuable security, or commits mischief in respect to such document shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

477A. Whoever, being a clerk, officer, or servant,

Falsification of accounts the capacity of a clerk, officer, or servant, wilfully, and with intent to defraud, destroys, alters, mutilates, or falsifies any book, paper, writing, valuable security, or account which belongs to, or is in the possession of, his employer, or has been received by him for or on behalf of his employer, or wilfully, and with intent to defraud, makes or abets the making of any false entry in, or omits or alters, or abets the omission or alteration of, any material particular from or in any such book, paper, writing, valuable security, or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

or servant, wilfully, and with intent to defraud, destroys, alters, mutilates, or falsifies any book, paper, writing, valuable security, or account which belongs to, or is in the possession of, his employer, or has been received by him for or on behalf of his employer, or wilfully, and with intent to defraud, makes or abets the making of any false entry in, or omits or alters, or abets the omission or alteration of, any material particular from or in any such book, paper, writing, valuable security, or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

*Explanation*—It shall be sufficient in any charge under this section to allege a general intent to de-

without naming any particular person into be defrauded, or specifying any particular sum of money intended to be the subject of the offence, or any particular day on which the offence was committed.

*Of Trade, Property, and Other Marks.*

78. A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trade-mark, and, for the purposes of this Code, the expression "trade-mark" includes any trade-mark which is registered in the register of trade-marks under the Patents, Designs, and Trade-marks Act, 1883, and any trade-mark which, either with or without registration, is protected by law in any British possession or foreign State to which the provisions of the one hundred and third section of the Patents, Designs, and Trade-marks Act, 1883, are, by order in Council, for the time being appli-

79. A mark used for denoting that moveable property belongs to a particular person is called a property-mark.

80. Whoever marks any goods, or any case, packing, or other receptacle containing goods, or uses any case, packing, or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, are the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade-mark.

**481.** Whoever marks any moveable property

Using a false property-mark. goods, or any case, package, or other receptacle containing moveable property or goods, or uses any case, package, or other receptacle having any mark thereon, in manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property-mark.

**482** Whoever uses any false trade-mark or any false property-mark shall, unless

Punishment for using a false trade-mark or property-mark. he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**483.** Whoever counterfeits any trade-mark or property-mark used by any other

Counterfeiting a trade-mark or property-mark used by another person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**484** Whoever counterfeits any property-mark used by a public servant, or any

Counterfeiting a mark used by a public servant. mark used by a public servant to denote that any property has been manufactured by a particular person, or at a particular time or place, or that the property is of a particular quality, or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

85. Whoever makes or has in his possession any die, plate, or other instrument for the purpose of counterfeiting a trade-mark or property-mark, or has in his possession a trade-mark or property-mark for the purpose of using the same in connection with goods are the manufacture of another person, in whose manufacture they do not belong to him, shall be liable to imprisonment for a term not exceeding three years, or with fine, or both.

**486.** Whoever sells or exposes, or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade-mark or property-mark, or to, or impressed upon, the same, or to or in any case, package, or other receptacle in which the goods are contained, shall, unless he proves—

- (a) that, having taken all reasonable precautions against committing an offence against this section, he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the mark, and
- (b) that, on demand made by, or on behalf of, the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or
- (c) that otherwise he had acted innocently,
- punished with imprisonment of either description or a term which may extend to one year, or with fine, or with both.

## 487. Whoever makes any false mark upon any

Making a false mark upon any receptacle containing goods. case, package, or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain, or that it does not contain goods which it does contain, or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

## 488. Whoever makes use of any such false mark

Punishment for making use of any such false mark. in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

## 489. Whoever removes, destroys, defaces, or

Tampering with property-mark with intent to cause injury. adds to any property-mark, intending or knowing it to be likely that he may thereby cause injury to any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

\* *Of Currency-notes and Bank-notes.*

## 489A. Whoever counterfeits, or knowingly per-

Counterfeiting currency-notes or bank-notes. forms any part of the process of counterfeiting, any currency-note or bank-note, shall be punished with transportation for life, with imprison-

t of either description for a term which may extend to ten years, and shall also be liable to fine.

*Explanation.*—For the purposes of this section of sections 489B, 489C, and 489D, the expression “bank-note” means a promissory note or instrument for the payment of money to bearer on demand and issued by any person carrying on the business of banking in any part of the world, or issued or under the authority of any State or Sovereign Power, and intended to be used as equivalent to, or substitute for, money.

**489B** Whoever sells to, or buys or receives from, or otherwise traffics in, or uses as genuine, any forged or counterfeit currency-note or bank-note knowing or having reason to believe the same to be forged or counterfeit, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**489C.** Whoever has in his possession any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, and intending to use the same as genuine, or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**489D.** Whoever makes, or performs any part of the process of making, or buys or sells or disposes of, or has in his possession, any machinery, instrument, or material for forging or counterfeiting currency-notes or banknotes.

for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for forging or counterfeiting any currency-note or bank-note, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.'

## CHAPTER XIX.

### OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE

490. Whoever, being bound by a lawful contract

Breach of contract of service during a voyage or journey

to render his personal service in conveying or conducting any person or any property from one place to another place, or to act as servant to any person during a voyage or journey, or to guard any person or property during a voyage or journey, voluntarily omits so to do, except in the case of illness or ill-treatment, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

#### Illustrations.

this section

(b) A, a cooly, being bound by lawful contract to carry Z's baggage from one place to another, runs away in the middle of the stage. A has committed the offence defined in this section

(c) A, a proprietor of bullocks, being bound by lawful contract to convey goods on his bullocks from one place to another, illegally omits to do so. A has committed the offence defined in this section

(d) A, by unlawful means, compels B, a cooly, to carry his baggage. B, in the course of the journey, puts down the baggage and runs away. Here, as B was not lawfully bound to carry the baggage, he has not committed any offence.

*Explanation.*—It is not necessary to this offence that the contract should be made with the person for whom the service is to be performed. It is sufficient if the contract is legally made with any person, either expressly or impliedly by the person who is to perform the service.

### *Illustration.*

A contracts with a dak company to drive his carriage for a month. B employs the dak company to convey him on a journey, and during the month the company supplies B with a carriage which is driven by A. A, in the course of the journey, voluntarily leaves the carriage. Here, although A did not contract with B, A is guilty of an offence under this section.

491. Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who, by reason of youth or of unsoundness of mind, or a disease or bodily weakness, is helpless or incapable of providing for his own safety, or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

492. Whoever, being bound by lawful contract in writing to work for another person as an artificer, workman, or labourer, for a period not more than three years, at any place within British India, to

Breach of contract to serve at distant place to which servant is conveyed at master's expense.



which, by virtue of the contract, he has been, or is to be, conveyed at the expense of such other, voluntarily deserts the service of that other during the continuance of his contract, or without reasonable cause refuses to perform the service which he has contracted to perform, such service being reasonable and proper service, shall be punished with imprisonment of either description for a term not exceeding one month, or with fine not exceeding double the amount of such expense, or with both, unless the employer has ill-treated him, or neglected to perform the contract on his part.

## CHAPTER XX.

### OF OFFENCES RELATING TO MARRIAGE.

**493.** Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him, and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**494.** Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

*Exception.*—This section does not extend to any person whose marriage with such husband or wife

as been declared void by a Court of competent jurisdiction, nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time, provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts, so far as the same are within his or her knowledge.

495. Whoever commits the offence defined in the last preceding section, having concealed from the person with whom the subsequent marriage is contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

496. Whoever dishonestly or with a fraudulent intention goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

497. Whoever has sexual intercourse with a person who is, and whom he knows or has reason to believe to be, the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of

Same offence with concealment of former marriage from person with whom subsequent marriage is contracted

Marriage ceremony fraudulently gone through without lawful marriage.

Adultery

the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.

498. Whoever takes or entices away any woman, who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

## CHAPTER XXI.

### OF DEFAMATION.

499. Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person, intending to harm, or knowing or having reason to believe that such imputation will harm the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

*Explanation 1.*—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

**Explanation 2.**—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

**Explanation 3.**—An imputation in the form of alternative, or expressed ironically, may amount to defamation.

**Explanation 4.**—No imputation is said to harm a person's reputation unless that imputation, directly or indirectly, in the estimation of others lowers the moral or intellectual character of that person, or attacks the character of that person in respect of his office or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state morally considered as disgraceful.

### *Illustrations.*

a) A says, "Z is an honest man; he never stole B's watch;" intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it fall within one of the exceptions.

b) A is asked, who stole B's watch? A points to Z intending to cause it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

c) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

**First Exception.**—It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good, is a question of fact.

*Second Exception.*—It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no farther.

*Third Exception.*—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no farther.

#### *Illustration.*

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such a meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

*Fourth Exception.*—It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

*Explanation.*—A Justice of the Peace or other officer holding an inquiry in open Court preliminary to a trial in a Court of Justice is a Court within the meaning of the above section.

*Fifth Exception.*—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or of the merits of any case, civil or criminal, which has been decided by a Court of Justice.

ce, or respecting the conduct of any person as a party, witness, or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no farther.

*Illustrations.*

(a) A says, "I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest." A is within this exception if he says this in good faith, inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no farther.

(b) But, if A says, "I do not believe what Z asserted at that trial, because I know him to be a man without veracity," A is not within this exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's conduct as a witness.

*Sixth Exception.*—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author, as far as his character appears in such performance, and no farther.

*Explanation.*—A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

*Illustrations.*

(a) A person who publishes a book submits that book to the judgment of the public.

(b) A person who makes a speech in public submits that speech to the judgment of the public.

(c) An actor or singer who appears on a public stage submits his acting or singing to the judgment of the public.

(d) A says of a book published by Z, "Z's book is foolish, Z must be a weak man; Z's book is indecent, Z must be a man of impure mind" A is within this exception if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z's character only so far as appears in Z's book, and no farther.

(e) But, if A says, "I am not surprised that Z's book is foolish and indecent, for he is a weak man, and a libertine" A is not within this exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's book.

*Seventh Exception.*—It is not defamation in

Censure passed in good faith by person having lawful authority over another person having over another authority, either conferred by law or arising out of a law contract made with that other. pass in good faith any censure on the conduct of the other in matters to which such lawful authority relates.

### *Illustration.*

A Judge censuring in good faith the conduct of a witness in a court of law; a department officer censuring the conduct of a subordinate; a parent censuring the conduct of his children; a schoolmaster, whose authority is recognized by law, censuring the conduct of his scholars; a master censuring the conduct of his servants; a husband censuring the conduct of his wife; a person censuring the conduct of another person in matters to which such person has lawful authority over that other person.

*Eighth Exception.*—It is not defamation to prefer

Accusation preferred in good faith to any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

*Illustration.*

A in good faith accuses Z before a Magistrate; if A in  
 . . . . . servant, to Z's  
 . . . . . conduct of Z, a

*Ninth Exception*—It is not defamation to make  
 atation made in an imputation on the character  
 faith by person of another, provided that the  
 protection of his or imputation be made in good faith  
 interests, for the protection of the interests  
 e person making it, or of any other person, or  
 he public good.

*Illustrations.*

1) A shop-keeper, says to B, who manages his business,  
 nothing to Z unless he pays you ready money, for I  
 no opinion of his honesty." A is within the exception,  
 has made this imputation on Z in good faith for the  
 protection of his own interests

2) A, a Magistrate, in making a report to his superior  
 or, casts an imputation on the character of Z. Here, if  
 imputation is made in good faith and for the public  
 good, A is within the exception

*Tenth Exception*.—It is not defamation to convey  
 ation intended a caution, in good faith, to one  
 good of person to person against another, provided  
 is conveyed or for that such caution be intended  
 for the good of the person to  
 om it is conveyed, or of some person in whom  
 t person is interested, or for the public good.

500. Whoever defames another, shall be punish-  
 ed with simple imprisonment for  
 a term which may extend to two  
 years, or with fine, or with both.

punishment for de-  
 amation.



true, and makes, publishes, or circulates it without any such intent as aforesaid.

**506.** Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both ;

and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or transportation, or with imprisonment for a term which may extend to seven years, or to impair the chastity of a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**507.** Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes shall be punished with imprisonment of either description for a term which may extend to two years in addition to the punishment provided for the offence by the last preceding section.

**508** Whoever voluntarily causes or attempts to cause any person to do anything which that person is not legally bound to do, or omit to do anything which he is legally entitled to do ;

by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act

offender an object of divine displeasure if he not do the thing which it is the object of the offender to cause him to do, or if he does the thing it is the object of the offender to cause him to

shall be punished with imprisonment of either option for a term which may extend to one year, with fine, or with both.

### *Illustrations.*

1. A sits dharna at Z's door with the intention of causing to be believed that by so sitting he renders Z an object of divine displeasure. A has committed the offence defined in section.

2. A threatens Z that, unless Z performs a certain act, he will kill one of A's own children under such circumstances that the killing would be believed to render Z an object of divine displeasure. A has committed the offence defined in section.

509. Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

510. Whoever, in a state of intoxication, appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to twenty-four

true, and makes, publishes, or circulates it without any such intent as aforesaid.

**506.** Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both ;

and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or transportation, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**507.** Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding section.

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offender an object of divine displeasure if he do the thing which it is the object of the offender to cause him to do, or if he does the thing it is the object of the offender to cause him to

all be punished with imprisonment of either term for a term which may extend to one year, or with fine, or with both.

### *Illustrations.*

A sits dharna at Z's door with the intention of causing to be believed that by so sitting he renders Z an object of divine displeasure. A has committed the offence defined in section.

A threatens Z that, unless Z performs a certain act, he will kill one of A's own children under such circumstances that the killing would be believed to render Z an object of divine displeasure. A has committed the offence defined in section.

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510. Whoever, in a state of intoxication, appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to twenty-four

hours, or with fine which may extend to ten rupees, or with both.

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### OF ATTEMPTS TO COMMIT OFFENCES.

511. Whoever attempts to commit an offence

Punishment for attempting to commit offences punishable with transportation or imprisonment

punishable by this Code with transportation or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with transportation or imprisonment of any description provided for the offence, for a term of transportation or imprisonment which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

#### *Illustrations.*

(a) A makes an attempt to steal some jewels by breaking open a box, and finds, after so opening the box, that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this section.

... .. thrust-  
... .. not in  
... .. guilty





# THE CRIMINAL PROCEDURE CODE, ACT V. OF 1898.

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THE  
CODE OF CRIMINAL PROCEDURE, 1898 :

BEING

ACT NO. V. OF 1899.

RECEIVED THE G.-G.'S ASSENT ON THE 22ND  
MARCH, 1898.

*An Act to consolidate and amend the Law  
relating to Criminal Procedure.*

WHEREAS it is expedient to consolidate and  
amend the law relating to Criminal Procedure ; It  
is hereby enacted as follows :—

PART I.—PRELIMINARY.

CHAPTER I.

1. (1) This Act may be called the Code of  
Criminal Procedure, 1898 ; and  
Short title  
Commencement. it shall come into force on the  
1st day of July, 1898

(2) It extends to the whole of British India,  
but, in the absence of any speci-  
fic provision to the contrary,  
Extent nothing herein contained shall  
affect any special or local law now in force, or any  
special jurisdiction or power conferred, or any special  
form of procedure prescribed, by any other law for  
the time being in force, or shall apply to—

(a) the Commissioners of Police in the towns  
of Calcutta, Madras and Bombay, or the







known or unknown, has committed an offence, but it does not include the report of a police-officer :

(i) "European British subject" means—

(i) any subject of Her Majesty born, naturalized or domiciled in the United Kingdom of Great Britain and Ireland or in any of the European, American or Australian Colonies or Possessions of Her Majesty, or in the Colony of New Zealand or in the Colony of the Cape of Good Hope or Natal ;

(ii) any child or grandchild of any such person by legitimate descent :

(j) "High Court" means, in reference to proceedings against European British subjects or persons jointly charged with European British subjects the High Courts of Judicature at Fort William, Madras and Bombay, the High Court of Judicature for the North-Western Provinces, the Chief Court of the Punjab and the Chief Court of Lower Burma : in other cases "High Court" means the highest Court of criminal appeal or revision for any local area ; or, where no such Court is established under any law for the time being in force, such officer as the Governor-General in Council may appoint in this behalf :

✓ (k) "inquiry" includes every inquiry other than a trial conducted under this Code by a Magistrate or Court :





der authorized under any law for the time being in force to practise in such Court, and includes (1) an advocate, a vakil and an attorney of a High Court so authorized, and (2) any mukhtar or other person appointed with the permission of the Court to act in such proceeding :

- (s) "police-station" means any post or place declared, generally or specially, by the Local Government to be a police-station, and includes any local area specified by the Local Government in this behalf :
- (t) "Public Prosecutor" means any person appointed under section 492, and includes any person acting under the directions of a Public Prosecutor and any person conducting a prosecution on behalf of Her Majesty in any High Court in the exercise of its original criminal jurisdiction ;
- (u) "sub-division" means a sub-division of a district :
- (v) "summons case" means a case relating to an offence, and not being a warrant case ; and
- (w) "warrant case" means a case relating to an offence punishable with death, transportation or imprisonment for a term exceeding six months.

Words referring to  
acts.  
omissions ; and

(2) Words which refer to  
acts done extend also to illegal



III.—Magistrates of the first class :

IV.—Magistrates of the second class :

V.—Magistrates of the third class.

*B—Territorial Divisions.*

7. (1) Every province (excluding the presidency-towns) shall be a sessions division, or shall consist of sessions divisions ; and every sessions division shall, for the purposes of this Code, be a district or consist of districts.

(2) The Local Government may alter the limits, or, with the previous sanction of the Governor-General in Council, the number, of such divisions and districts.

(3) The sessions divisions and districts existing when this Code comes into force shall be sessions divisions and districts respectively, unless and until they are so altered.

(4) Every presidency-town shall, for the purposes of this Code, be deemed to be a district.

8. (1) The Local Government may divide any district outside the presidency-towns into sub-divisions, or make any portion of any such district a sub-division, and may alter the limits of any sub-division.

(2) All existing sub-divisions which are now usually put under the charge of a Magistrate shall be deemed to have been made under this Code.



11. Whenever, in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the chief executive administration of the district, such officer shall, pending the orders of the Local Government, exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

12. (1) The Local Government may appoint as subordinate Magistrates many persons as it thinks fit, besides the District Magistrate, to Magistrates of the first, second or third class in any district outside the presidency-towns; and the Local Government or the District Magistrate subject to the control of the Local Government, may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.

(2) Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such district.

13. (1) The Local Government may place any Magistrate of the first or second class in charge of a sub-division, and relieve him of the charge as occasion requires.

(2) Such Magistrates shall be called Sub-divisional Magistrates.

(3) The Local Government may delegate its powers under this section to the District Magistrate.

14. (1) The Local Government may confer upon any person all or any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class in respect to particular cases, or to a particular class or particular classes of cases, or in regard to cases generally, in any local area outside the presidency-towns.

(2) Such Magistrates shall be called Special Magistrates, and shall be appointed for such term as the Local Government may by general or special order direct.

(3) With the previous sanction of the Governor-General in Council, the Local Government may delegate, with such limitations as it thinks fit, to any officer under its control, the power conferred by subsection (1).

(4) No powers shall be conferred under this section on any police-officer below the grade of Assistant District Superintendent, and no powers shall be conferred on a police-officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.

15. (1) The Local Government may direct any Bench of Magistrates, two or more Magistrates in any place outside the presidency-towns to sit together as a bench, and may by order invest such Bench with any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases, or such classes

of cases only, and within such local limits, as the Local Government thinks fit.

(2) Except as otherwise provided by any order under this section, every such Bench shall have the powers conferred by this Code on a Magistrate of the highest class to which any one of its members who is present taking part in the proceedings as a member of the Bench, belongs, and as far as practicable shall, for the purposes of this Code, be deemed to be a Magistrate of such class.

16. The Local Government may, (or, subject to the control of the Local Government, the District Magistrate may, from time to time, make rules consistent with this Code for the guidance of Magistrates' Benches in any district respecting the following subjects :—

- (a) the classes of cases to be tried ;
- (b) the times and places of sitting ;
- (c) the constitution of the Bench for conducting trials ;
- (d) the mode of settling differences of opinion which may arise between the Magistrates in session.

17. (1) All Magistrates appointed under sections 12, 13 and 14, and all Benches constituted under section 15, shall be subordinate to the District Magistrate, and he may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches ; and





(2) The powers of a Presidency Magistrate under this Code shall be exercised by the Chief Presidency Magistrate, or by a salaried Presidency Magistrate or by any other Presidency Magistrate empowered by the Local Government to sit singly, or by any Bench of Presidency Magistrates.

19. Any two or more of such persons may (subject to the rules made by the Chief Presidency Magistrate under the power hereinafter conferred) sit together as a Bench.

20. Every Presidency Magistrate shall exercise jurisdiction in all places within the Presidency-town for which he is appointed, and within the limits of the port of such town and of any navigable river or channel leading thereto, as such limits are defined under the law for the time being in force for the regulation of ports and port-dues.

21. (1) Every Chief Presidency Magistrate shall exercise within the local limits of his jurisdiction all the powers conferred on him by this Code or which by any law or rule in force immediately before this Code comes into force are required to be exercised by any Senior or Chief Presidency Magistrate, and may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Code to regulate—

- (a) the conduct and distribution of business and the practice in the Courts of the Magistrates of the town;
- (b) the times and places at which Benches of Magistrates shall sit;

- (c) the constitution of such Benches ;
- (d) the mode of settling differences of opinion which may arise between Magistrates in session and ;
- (e) any other matter which could be dealt with by a District Magistrate under his general powers of control over the Magistrate subordinate to him.

(2) The Local Government may, for the purposes of this Code, declare what Presidency Magistrates are subordinate to the Chief Presidency Magistrate, and may define the extent of their subordination.

*E.—Justices of the Peace.*

22. The Governor-General in Council, so far as regards the whole or any part of British India outside the Presidency-towns,

and every Local Government, so far as regards the territories subject to its administration (other than the towns aforesaid),

may, by notification in the official Gazette, appoint such European British subjects as he or it thinks fit to be Justices of the Peace within and for the territories mentioned in such notification.

23. The Local Government, so far as regards the towns of Calcutta, Madras and Bombay, may, by notification in the official Gazette, appoint to be Justices of the Peace within the limits of the town mentioned in such notification any persons resident within British India and not being the subjects of any foreign State whom the Local Government thinks fit.

24. (1) Every person now acting as a Justice of the Peace within and for any part of British India other than the said towns, under any commission issued by a High Court, shall be deemed to have been appointed under section 22 by the Governor-General in Council to act as a Justice of the Peace for the whole British India other than the said towns.

(2) Every person now acting as a Justice of the Peace within the limits of any of the said towns under any such commission shall be deemed to have been appointed under section 23 by the Local Government.

25. In virtue of the respective offices, the *Ex-officio* Justices of the Peace of Governor-General, Governors, Lieutenant-Governors and Chief Commissioners, the Ordinary Members of the Council of the Governor-General, and the Judges of the High Court, are Justices of the Peace within and for the whole of British India, Sessions Judge and District Magistrate are Justices of the Peace within and for the whole of the territories administered by the Local Government under which they are serving, and the Presidency Magistrate are Justices of the Peace within and for the towns of which they are respectively Magistrates.

#### *F.—Suspension and Removal.*

26. All Judges of Criminal Courts other than the High Courts established by Royal Charter, and all Magistrates may be suspended or removed from office by the Local Government:

Provided that such Judges and Magistrates as now are liable to be suspended or removed from



under this Code by which such offence is shewn in the eighth column of the second schedule to be triable.

30. In the territories respectively administered by the Lieutenant-Governors of the Punjab and Burma and the Chief Commissioners of Oudh, the Central Provinces, Coorg and Assam, in Sind, and in those parts of the other Provinces in which there are Deputy Commissioners or Assistant Commissioners, the Local Government may, notwithstanding anything contained in section 29, invest the District Magistrate or any Magistrate of the first class with power to try as a Magistrate all offences not punishable with death.

*B.—Sentences which may be passed by Courts of various Classes.*

✓ Sentences which High Courts and Sessions Judges may pass. 31. (1) A High Court may pass any sentence authorized by law.

(2) A Sessions Judge or Additional Sessions Judge may pass any sentence authorized by law ; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court.

(3) An Assistant Sessions Judge may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years, or of imprisonment for a term exceeding seven years.

✓ Sentence which Magistrates may pass.

32. (1) The Courts of Magistrates may pass the following sentences, namely :—

(a) Courts of Presidency Magistrates and of Magistrates of the first class : { Imprisonment for a term not exceeding two years, including such solitary confinement as is authorized by law ;  
Fine not exceeding one thousand rupees ;  
Whipping.

(b) Courts of Magistrates of the second class : { Imprisonment for a term not exceeding six months, including such solitary confinement as is authorized by law ;  
Fine not exceeding two hundred rupees ;  
Whipping (if specially empowered).

(c) Courts of Magistrates of the third class. { Imprisonment for a term not exceeding one month ;  
Fine not exceeding fifty rupees.

(2) The Court of any Magistrate may pass any lawful sentence, combining any of the sentences which it is authorized by law to pass.

(3) No Court of any Magistrate of the second class shall pass a sentence of whipping unless it is specially empowered in this behalf by the Local Government.

33. (1) The Court of any Magistrate may award such term of imprisonment in default of payment of fine as is authorized by law in case of such default :

Power of Magistrates to sentence to imprisonment in default of fine  
Provided that—

(a) the term is not in excess of the Magistrate's powers under this Code ;

(b) in any case decided by a Magistrate where

Proviso as to certain imprisonment has been awarded in cases.

part of the substantive sentence, the period of imprisonment awarded in default of payment of the fine shall not exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

(2) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 32.

✓ 34. The Court of a Magistrate, specially empowered under section 30, may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years or imprisonment for a term exceeding seven years.

✓ 35. (1) When a person is convicted at one trial of two or more distinct offences, the Court may sentence him, for such offences, to the several punishments prescribed therefor which such Court is competent to inflict; such punishments, when consisting of imprisonment or transportation, to commence the one after the expiration of the other in such order as the Court may direct, unless the Court directs that such punishments shall run concurrently.

(2) In the case of consecutive sentences, it shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to





37. In addition to his ordinary powers, any Sub-divisional Magistrate or any Additional powers Sub-divisional Magistrate or any Magistrate of the first, second or third class may be invested by the Local Government or the District Magistrate, as the case may be, with any powers specified in the fourth schedule as powers with which he may be invested by the Local Government or the District Magistrate.

38. The power conferred on the District Magistrate by section 37 shall be exercised subject to the control of the Local Government.

Control of District Magistrate's investing power.

#### *D.—Conferment, Continuance and Cancellation of Powers.*

39. (1) In conferring powers under this Code the Local Government may, by order, empower persons specially by name or in virtue of their office, or classes of officials generally by their official titles.

Mode of conferring powers

(2) Every such order shall take effect from the date on which it is communicated to the person so empowered.

40. Whenever any person holding an office in the service of Government who has been invested with any powers under this Code throughout any local area is transferred to an equal or higher office of the same nature, within a like local area under the same Local Government, he shall, unless the Local Government otherwise directs, or has otherwise directed, continue to exercise the same powers in the local area to which he is so transferred.

Continuance of powers of officers transferred.



44. (1) Every person, whether within or without the presidency-towns, aware of the commission of, or of the intention of any other person to commit, any offence punishable under any of the following sections of the Indian Penal Code (namely), 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 and 460, shall, in the absence of reasonable excuse, the burden of proving which shall lie on the person so accused, forthwith give information to the nearest police-officer of such

(2) For the purposes of this section the term "offence" includes any act committed at any place out of British India which would constitute an offence if committed in British India.

45. (1) Every village-headman, village-accountant, village watchman, village-police-officer, owner or occupier of land, and the agent of any such owner or occupier, and every officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police-station, whichever is the nearer, any information which he may obtain respecting—

- (a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, accountant, watchman or police-officer, or in which he owns or



- (ii) the expression "proclaimed offender," includes any person proclaimed as an offender by any Court or authority established or continued by the Governor-General in Council in any part of India in respect of any act which, if committed in British India, would be punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, and 460.

(3) Subject to rules in this behalf to be made

Appointment of village headmen by District Magistrate in certain cases for purposes of this section

by the Local Government, the District Magistrate may from time to time appoint one or more persons to be village-headmen for the purposes of this section in

any village for which there is no such headman appointed under any other law.

## CHAPTER V.—OF ARREST, ESCAPE AND RETAKING.

### *A.—Arrest generally.*

✓ 46. (1) In making an arrest, the police-officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

(2) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police-officer or other person may use all means necessary to effect the arrest.



afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

49. Any police-officer or other person authorized to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

50. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

51. Whenever a person is arrested by a police-officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail, and

whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest, or, when the arrest is made by a private person, the police-officer to whom he makes over the person arrested, may search such person and place in safe custody all articles, other than necessary wearing apparel, found upon him.

52. Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency.





*fifthly*—any person who obstructs a police-officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody ;

*sixthly*—any person reasonably suspected of being a deserter from Her Majesty's Army or Navy, or of belonging to Her Majesty's Indian Marine Service and being illegally absent from that service.

*seventhly*—any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists, of his having been concerned in, any act committed

and for which he is, under any law relating to extradition or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in British India ;  
and

*eighthly*—any released convict committing a breach of any rule made under section 565, subsection (3).

(2) This section applies also to the police in the town of Calcutta.

55. (1) Any officer in charge of a police-station

Arrest of vagabonds, may, in like manner, arrest or  
habitual robbers, &c. cause to be arrested—



57. (1) When any person who, in the presence of a police-officer, has committed a non-cognizable offence refuses, on demand of such officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required :

Provided that, if such person is not resident in British India, the bond shall be secured by a surety or sureties resident in British India.

(3) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

58. A police-officer may, for the purpose of arresting without warrant any person whom he is authorized to arrest under this chapter, pursue such person into any place in British India.

59. (1) Any private person who, in his view, commits a non-bailable and cognizable offence, or who has been proclaimed as an offender ;

and shall, without unnecessary delay, make over any person so arrested to a police officer, or, in the absence of



d without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

63. "No person who has been arrested by a police-officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.

64. When any offence is committed in the presence of a Magistrate's person to arrest subject to the commit the offender to custody.

65. Any Magistrate may at any time arrest or direct the arrest, in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

66. If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in British India.

67. The provisions of sections 47, 48 and 49, shall apply to arrests under section 66, although the person making any such arrest is not acting under a warrant, and is not a police-officer having authority to arrest.



70. Where the person summoned cannot by the exercise of due diligence be

Service when person summoned cannot be found found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family, or, in a presidency-town, with his servant residing with him; and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

71. If service in the manner mentioned in sections 69 and 70 cannot by the ex-

Procedure when service cannot be effected as before provided ercise of due diligence be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the summons shall be deemed to have been duly served.

72. (1) Where the person summoned is in the

Service on servant of Government or of Railway Company active service of the Government or of a Railway Company, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in manner provided by section 69, and shall return it to the Court under his signature with the endorsement required by that section.

(2) Such signature shall be evidence of due service.

73. When a Court desires that a summons issu-

Service of summons outside local limits ed by it shall be served at any place outside the local limits of its jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within the local limits of



whose jurisdiction the person summoned resides or is, to be there served.

74. (1) When a summons issued by a Court is served outside the local limits of its jurisdiction, and in any case where the officer who has served a summons is not present at the

Proof of service in such cases, and when serving officer not present

hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed in manner provided by section 69 or section 70 by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

(2) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

#### *B.—Warrant of Arrest.*

75. (1) Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer, or, in the case of a Bench of Magistrates, by any member of such Bench; and shall bear the seal of the Court

Form of warrant of arrest

(2) Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

Continuance of warrant of arrest.

76. (1) Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that, if such person executes a bond

Court may direct security to be taken

discretion direct by endorsement

on the warrant that, if such person executes a bond

with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(2) The endorsement shall state—

- (a) the number of sureties ;
- (b) the amount in which they and the person for whose arrest the warrant is issued are to be respectively bound ; and
- (c) the time at which he is to attend before the Court.

(3) Whenever security is taken under this section, the officer to whom the warrant is directed shall forward the bond to the Court.

77. (1) A warrant of arrest shall ordinarily be directed to one or more police-officers, and, when issued by a Presidency Magistrate, shall always be so directed; but any other Court issuing such a warrant may, if its immediate execution is necessary and no police-officer is immediately available, direct it to any other person or persons ; and such person or persons shall execute the same

(2) When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more, of them.

78 (1) A District Magistrate or Sub-divisional Magistrate may direct a warrant to any landholder, farmer or manager of land within his district or sub-division for the arrest of any escaped

convict, proclaimed offender or person who has been accused of a nonbailable offence, and who has eluded pursuit

(2) Such landholder, farmer or manager shall, on knowledge in writing the receipt of the warrant, shall execute it if the person for whose arrest it was issued, is in, or enters on, his land or farm, or land under his charge.

(3) When the person against whom such warrant is issued, is arrested, he shall be made over with the warrant to the nearest police-officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 76.

79. A warrant directed to any police-officer may also be executed by any other police-officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

80. The police-officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.

81. The police-officer or other person executing a warrant of arrest shall (subject to the provisions of section 76 as to security), without any necessary delay bring the person arrested before the Court before which he is required by law to produce such person.

Where warrant may be executed, 82. A warrant of arrest may be executed at any place in British India.

83. (1) When a warrant is to be executed outside the local limits of the jurisdiction of the Court issuing the same, such Court may, instead of directing such warrant to a police-officer, forward the same by post or otherwise to any Magistrate or District Superintendent of Police or the Commissioner of Police in a Presidency-town within the local limits of whose jurisdiction it is to be executed.

(2) The Magistrate or District Superintendent or Commissioner to whom such warrant is so forwarded shall endorse his name thereon and, if practicable, cause it to be executed in manner hereinbefore provided within the local limits of his jurisdiction.

84. (1) When a warrant directed to a police-officer is to be executed beyond the local limits of the jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to a Magistrate or to a police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

(2) Such Magistrate or police-officer shall endorse his name thereon, and such endorsement shall be sufficient authority to the police-officer to whom the warrant is directed to execute the same within such limits, and the local police shall, if so required, assist such officer in executing such warrant.

(3) Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or police-officer within the local



or security, as the case may be, and forward the bond to the Court which issued the warrant.

(2) Nothing in this section shall be deemed to prevent a police-officer from taking security under section 76.

*C.—Proclamation and Attachment*

87. (1) If any Court has reason to believe <sup>Proclamation for</sup> (whether after taking evidence <sup>person absconding.</sup> or not) that any person against whom a warrant has been issued by it has absconded or is <sup>warrant</sup> cannot be <sup>written</sup> proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

(2) The proclamation shall be published as follows :—

(a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides ;

(b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village ; and

(c) a copy thereof shall be affixed to some conspicuous part of the Court-house.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirements of this sec-



(g) by an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to any one on his behalf ; or

(h) by all or any two of such methods, as the Court thinks fit.

(5) If the property ordered to be attached consists of live-stock or is of a perishable nature, the Court may, if it thinks it expedient, order immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court.

(6) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under Chapter XXXVI. of the Code of Civil Procedure.

(7) If the proclaimed person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government ; but it shall not be sold until the expiration of six months from the date of the attachment, unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner, in either of which cases the Court may cause it to be sold whenever it thinks fit.

89. If, within two years from the date of the Restoration of attachment, any person whose property is or has been at the disposal of Government under sub-section (7) of section 88, appears voluntarily or is apprehended and the Court is satisfied that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant,





92. When any person who is bound by any Arrest on breach of bond taken under this Code to appear before a Court, does not appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him.

93. The provisions contained in this chapter relating to a summons and warrant, and their issue, service and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code.

## CHAPTER VII.—OF PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVABLE PROPERTY, AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED.

### A.—*Summons to Produce.*

94. (1) Whenever any Court, or, in any place beyond the limits of the towns of Calcutta and Bombay, any officer in charge of a police-station, considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(2) Any person required under this section merely to produce a document or other thing shall be



to produce the document or thing as required by each summons or requisition,

or where such document or thing is not known to the Court to be in the possession of any person,

or where the Court considers that the purposes of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection,

it may issue a search-warrant : and the person to whom such warrant is directed, may search or inspect in accordance therewith and the provisions hereinafter contained.

(2) Nothing herein contained shall authorize any Magistrate other than a District Magistrate or Chief Presidency Magistrate to grant a warrant to search for a document, parcel or other thing in the custody of the Postal or Telegraph Authorities.

97. The Court may, if it thinks fit, specify in the warrant the particular place or part thereof to which only the search or inspection shall extend ; and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified.

98. (1) If a District Magistrate, Sub-divisional Magistrate, Presidency Magistrate or Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property,

or for the deposit or sale or manufacture of forged documents, false seals or counterfeit stamps or



said property to have been stolen or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or stamps or for forging.

(2) The provisions of this section with respect

- (a) counterfeit coin,
- (b) coin suspected to be counterfeit, and
- (c) instruments or materials for counterfeiting coin, shall, so far as they can be made applicable, apply respectively to—
  - (a) pieces of metal made in contravention of the Metal Tokens Act, 1889, or brought into British India in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878,
  - (b) pieces of metal suspected to have been so made or to have been so brought into British India or to be intended to be issued in contravention of the former of those Acts, and
  - (c) instruments or materials for making pieces of metal in contravention of that Act.

99. When, in the execution of a search-warrant  
 Disposal of things found in search beyond local jurisdiction—  
 at any place beyond the local limits of the jurisdiction of the Court which issued the same,



all on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

(2) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by section 48.

(3) Where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched. If such person is a woman, the directions of section 52 shall be observed.

103. (1) Before making a search under this chapter, the officer or other person Search to be made in presence of witnesses about to make it, shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search.

(2) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found, shall be prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

(3) The occupant of the place searched, or some Occupant of place searched may attend. every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witness-



es, shall be delivered to such occupant or person at his request.

(4) When any person is searched under section 102, sub-section (3), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person at his request.

#### *E.—Miscellaneous.*

Power to impound document, &c produced. 104. Any Court may, if it thinks fit, impound any document or thing produced before it under this Code.

105. Any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search warrant.

## PART IV.—PREVENTION OF OFFENCES

### CHAPTER VIII.—OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

#### *A.—Security for keeping the Peace on Conviction.*

106. (1) Whenever any person accused of rioting, assault or other offence involving a breach of the peace, or of abetting the same, or of assembling armed men, or taking other unlawful measures with the evident intention of committing the same, or any person accused of committing criminal intimidation, is convicted of such offence before a High Court, a Court of Sessions or the Court of a Presidency Magistrate, a District Magis-

ate, ■ Sub-divisional Magistrate or a Magistrate of the first class,

and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace,

such Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding three years, as it thinks fit to fix.

(2) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(3) An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision.

*B.—Security for keeping the Peace in other cases and Security for Good Behaviour.*

107. (1) Whenever a Presidency Magistrate,

Security for keeping the peace in other cases.

person is likely to commit a breach of the peace or disturb the public tranquillity, or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquillity, the Magistrate may in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.

(2) Proceedings shall not be taken under this section unless the person informed against, or the place where the breach of the peace or disturbance

is apprehended, is within the local limits of such Magistrate's jurisdiction, and no proceedings shall be taken before any Magistrate, other than a Chief Presidency or District Magistrate, unless both the person informed against and the place where the breach of the peace or disturbance is apprehended, are within the local limits of the Magistrate's jurisdiction.

(3) When any Magistrate not empowered to

Procedure of Magistrate not empowered to act under sub-section (1)

proceed under sub-section (1) has reason to believe that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity, and that such breach of the peace or disturbance cannot be prevented otherwise than by the issue of a warrant for the arrest of such Magistrate, he may issue a warrant for the arrest of such person (or persons) and may send him before a Magistrate empowered to deal with the case, together with a copy of his reasons.

(4) A Magistrate, before whom a person is sent under this section, may in his discretion detain such person in custody until the completion of the inquiry hereinafter prescribed.

108. Whenever a Chief Presidency or District Magistrate, or a Presidency Magistrate or Magistrate of the first class especially empowered by the Local Government in this behalf, has information that there is within the limits of his jurisdiction any person who within or without such limits, either orally or in writing, disseminates

Security for good behaviour from persons disseminating seditious matter

Magistrate, or a Presidency Magistrate or Magistrate of the first class especially empowered by the Local Government in this behalf, has information that there is within the limits of his jurisdiction any person who within or without such limits, either orally or in writing, disseminates

behalf, has information that there is within the limits of his jurisdiction any person who within or without such limits, either orally or in writing, disseminates

attempts to disseminate, or in anywise abets the dissemination of,—

(a) any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the Indian Penal Code, or

(b) any matter the publication of which is punishable under section 153A of the Indian Penal Code, or

(c) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Indian Penal Code,

such Magistrate may (in manner hereinafter provided) require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under, or printed or published in conformity with, the rules laid down in the Press and Registration of Books Act, 1867, except by the order or under the authority of the Governor-General in Council or the Local Government or some officer empowered by the Governor-General in Council in this behalf.

Security for good behaviour from vagrants and suspected persons 109 Whenever a Presidency Magistrate, District Magistrate, Sub divisional Magistrate or Magistrate of the first class receives information—

(a) that any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction,



(f) is so desperate and dangerous as to render his being at large without security hazardous to the community,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, not exceeding such sum as the Magistrate may think fit to fix.

111. The provisions of sections 109 and 110 do not apply to European British subjects in cases where they may be dealt with under the European Vagrancy Act, 1874.

112. When a Magistrate acting under section 107, section 108, section 109 or section 110 deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required.

113. If the person in respect of whom such order is made is present in Court, it shall be read over to him or, if he so desires, the substance thereof shall be explained to him.

114. If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is to bring him before the Court:



d for conducting trials and recording evidence in summons-cases ; and, where the order requires security for good behaviour, in the manner hereinafter prescribed for conducting trials and recording evidence in warrant-cases, except that no charge need be framed.

(3) For the purposes of this section the fact that a person is an habitual offender may be proved by evidence of general repute or otherwise.

(4) Where two or more persons have been associated together in the matter under inquiry, they may be dealt with in the same or separate inquiries and the Magistrate shall think just.

118. (1) If, upon such inquiry, it is proved that a person is such a person as to give security it is necessary, for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the Magistrate shall make an order accordingly :

Provided,—

*first*, that no person shall be ordered to give security of a nature different from, or for an amount larger than, or for a period longer than, that specified in the order made under section 112 :

*secondly*, that the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive :

*thirdly*, that, when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.





23. (1) If any person ordered to give security under section 106 or section 118 of security. does not give such security on or before the date on which the period for which such security is to be given, commences, he shall, except in the case next hereinafter mentioned, be committed to prison, or, if he is already in prison, be detained in prison until such period expires, or until within the period he gives the security to the Court or Magistrate who made the order requiring it.

(2) When such person has been ordered by a Magistrate to give security for a period exceeding one year, such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing him to be detained in prison pending the orders of the Sessions Judge, if such Magistrate is a Presidency Magistrate, or the orders of the High Court: and the proceedings shall be laid, as soon as conveniently may be, before such Court.

(3) Such Court, after examining such person, may require him to give security as aforesaid, or may order him to be detained in such prison.

Provided that the period (if any) for which any person is imprisoned for failure to give security shall not exceed three years.

(4) If the security is tendered to the officer in charge of the jail, he shall forthwith refer the matter to the Court or Magistrate who made the order, and shall await the orders of such Court or Magistrate.

64' SECURITY FOR KEEPING THE PEACE, ETC.

Kind of imprisonment

(5) Imprisonment for failing to give security for keeping the peace shall be simple.

(6) Imprisonment for failure to give security for good behaviour may be rigorous or simple as the Court or Magistrate in each case directs.

124 (1) Whenever the District Magistrate or a Chief Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this chapter, whether by the order of such Magistrate or that of his predecessor in office, or of some subordinate Magistrate, may be released without hazard to the community or to any other person, he may order such person to be discharged.

(2) Whenever any person has been imprisoned for failing to give security under this chapter, the Chief Presidency or District Magistrate may (unless the order has been made by some Court superior to his own) make an order reducing the amount of the security or the number of sureties or the time in which security has been required.

(3) Whenever the District Magistrate or a Chief Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this chapter as ordered by the Court of Session or High Court may be released without hazard to the community, such Magistrate shall make an immediate report of the case for the orders of the Court of Session or High Court, as the case may be, and such Court may, if it thinks fit, order such person to be discharged.

5. The Chief Presidency or District Magistrate may at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace or for good behaviour executed under this chapter by order of Court in his district not superior to his Court.

106 (1) Any surety for the peaceable conduct or

of his jurisdiction

1) On such application being made, the Magistrate shall issue his summons or warrant, as he thinks requiring the person for whom such surety is bound to appear or to be brought before him.

3) When such person appears or is brought before the Magistrate, such Magistrate shall cancel the bond, and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security. Every such order shall, for the purposes of sections 121, 122, 123 and 124, be deemed to be an order made under section 106 or section 118, as the case may be.

## CHAPTER IX.

### UNLAWFUL ASSEMBLIES.

127. (1) Any Magistrate or officer in charge of a police-station may command any assembly in disobedience of law on command of Magistrate or police-officer, or any assembly of five or more persons likely to cause a disturbance of



Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly to have them punished according to law.

(2) Every 'such' officer shall obey such requisition in such manner as he thinks fit; but, in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

131. When the public security is manifestly endangered by any such assembly, and when no Magistrate can be communicated with, any commissioned officer of Her Majesty's Army may disperse such assembly by military force, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished

thenceforward obey the instructions of the Magistrate as to whether he shall or shall not continue such action.

132. No prosecution against any person for any act purporting to be done under this chapter shall be instituted in any criminal Court except with the sanction of the Governor-General in Council; and—

- (a) no Magistrate or police-officer acting under this chapter in good faith,
- (b) no officer acting under section 131 in good faith,



living or carrying on business in the neighbourhood passing by, and that in consequence its removal, repair, or support is necessary, or

that any tank, well, or excavation adjacent to any such way or public place should be fenced in such a manner as to prevent danger arising to the public,

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, substance, tank, well or excavation, within a time to be fixed in the order,

to remove such obstruction or nuisance ; or

to suppress or remove such trade or occupation ; or

to remove such goods or merchandise ; or

to prevent or stop the construction of such building ; or

to remove, repair or support it ; or

to alter the disposal of such substance ; or

to fence such tank, well or excavation, as the case may be ; or

to appear before himself or some other Magistrate of the first or second class, at a time and place to be fixed by the order, and move to have the order set aside or modified in manner hereinafter provided.

(2) No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

*Explanation.*—A "public place" includes also property belonging to the State, camping grounds





that the order  
proceedings

(3) If the Magistrate is not so satisfied, the order shall be made absolute.

138. (1) On receiving an application under section 135 to appoint a jury, the Magistrate shall—  
Procedure where he claims jury,

(a) forthwith appoint a jury consisting of an uneven number of persons not less than five, of whom the foreman and one-half of the remaining members shall be nominated by such Magistrate, and the other members by the applicant ;

(b) summon such foreman and members to attend at such place and time as the Magistrate thinks fit ; and

(c) fix a time within which they are to return their verdict.

(2) The time so fixed may, for good cause shown, be extended by the Magistrate.

139. (1) If the jury or a majority of the jurors

Procedure where jury finds Magistrate's order to be reasonable

modification which the Magistrate accepts, the Magistrate shall make the order absolute, subject to such modification (if any).

(2) In other cases, no further proceedings shall be taken under this chapter.

140. (1) When an order has been made absolute under section 136, section 137, or section 139, the Magistrate  
Procedure on order being made absolute.

shall give notice of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that in case of disobedience, he will be liable to the penalty provided by section 188 of the Indian Penal Code.

(2) If such act is not performed within the time fixed, the Magistrate may cause it to be performed, and may recover the costs of performing it, either by the sale of any building, goods or other property removed by his order, or by the sale of any other movable property found within the local limits of such other order. He shall authorize its attachment and sale when endorsed by the Magistrate within the local limits of whose jurisdiction the property to be attached is found.

(3) No suit shall lie in respect of anything done in good faith under this section.

141. If the applicant, by neglect or otherwise, prevents the appointment of the jury, or if, from any cause, the jury appointed do not return their verdict within the time fixed or within such further time as the Magistrate may in his discretion allow, the Magistrate may pass such order as he thinks fit, and such order shall be executed in the manner provided by section 140.

142. (1) If a Magistrate, making an order under section 133, considers that immediate measures should be taken in the case of an inquiry pending under such order, he may, in addition to the order made under section 133, make such order as he thinks fit, and such order shall be executed in the manner provided by section 140.

aken to prevent imminent danger or injury of a serious kind to the public, he may, whether a jury is to be, or has been, appointed or not, issue such an injunction to the person against whom the order was made as is required to obviate or prevent such danger or injury pending the determination of the matter.

(2) In default of such person forthwith obeying such injunction, the Magistrate may himself use, or cause to be used, such means as he thinks fit to obviate such danger or to prevent such injury.

(3) No suit shall lie in respect of anything done in good faith by a Magistrate under this section.

143. A District Magistrate or Sub-divisional Magistrate, or any other Magistrate empowered by the Local Government or the District Magistrate in this behalf, may order any person not to repeat or continue a public nuisance as defined in the Indian Penal Code or any special or local law.

Magistrate may prohibit repetition or continuance of public nuisance

Magistrate, or any other Magistrate empowered by the Local Government or the District Magistrate in this behalf, may order

any person not to repeat or continue a public nuisance as defined in the Indian Penal Code or any special or local law.

## CHAPTER XI.

### TEMPORARY ORDERS IN URGENT CASES OF NUISANCE OR APPREHENDED DANGER.

144 (1) In cases where, in the opinion of a District Magistrate, a Chief Presidency Magistrate, a Sub-divisional Magistrate, or of any other Magistrate specially empowered by the Local Government or the Chief Presidency Magistrate or the

Power to issue order absolute at once in urgent cases of nuisance or apprehended danger.

District Magistrate, a Chief Presidency Magistrate, a Sub-divisional Magistrate, or of any other Magistrate specially empowered by the Local Government or the Chief Presidency Magistrate or the



## CHAPTER XII.

## DISPUTES AS TO IMMOVABLE PROPERTY.

145. (1) Whenever a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, is satisfied, from a police-report or other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties, concerned in such dispute to attend his Court in person or by pleader, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

(2) For "land or water" or other things of any such property.

(3) A copy of the order shall be served in manner provided by this Code for the service of a summons upon such person or persons as the Magistrate may direct, and at least one copy shall be published by being affixed to some conspicuous place at or near the subject of dispute.

(4) The Magistrate shall then, without reference to the merits of the claims of any of such parties to a right to possess the subject of dispute, peruse the statements so put in, hear the parties, receive the evidence produced by them respectively, consider the effect of such evidence, take such further evidence (if any) as he thinks necessary, and, if possible, decide whe-



of the subject of dispute, he may attach it until competent Court has determined the rights of the ■ thereto, or the person entitled to possession of.

2) When the Magistrate attaches the subject of dispute, he may, if he thinks fit, appoint a receiver of, who, subject to the control of the Magistrate, have all the powers of a receiver appointed under the Code of Civil Procedure.

147. Whenever any such Magistrate is satisfied that a dispute concerning as aforesaid that a dispute likely to cause a breach of the peace exists concerning the right of use of any land or other (including any right of way or other easement) within the local limits of his jurisdiction, he may inquire into the matter in manner provided by section 145, and may, if it appears to him that such right exists, make an order permitting such thing to be done or directing that such thing shall be done, as the case may be, until the person seeking to have such thing being done, or claiming that such thing may be done, obtains the decision of competent Court adjudging him to be entitled to have the doing of, or to do, such thing, as the case may be :

Provided that no order shall be passed under this section permitting the doing of anything where the right to do such thing is exercisable at all times of the year, unless such right has been exercised within twelve months next before the institution of the inquiry ; or, where the right is exercisable only at particular seasons or on particular occasions, unless such right has been exercised during the last of such seasons or occasions before such institution.





police-officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

151. A police-officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

152. A police-officer may, of his own authority, interpose to prevent any injury to public property attempted to be committed in his view to any public property, movable or immovable, or the removal or injury of any public land-mark or buoy or other mark used for navigation.

153. (1) Any officer in charge of a police-station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false.

(2) If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a Magistrate having jurisdiction.

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156. (1) Any officer in charge of a police-station Investigation into may, without the order of a Magistrate, investigate any cognizable cases. gistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XV. relating to the place of inquiry or trial.

Any officer in any such question on the such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 190 may order such an investigation as above mentioned.

157. (1) If, from information received or otherwise, an officer in charge of a police-station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police-report, and shall proceed in person, or shall depute one of his subordinate officers to proceed, to the spot to investigate the facts and circumstances of the case, and to take such measures as may be necessary for the discovery and arrest of the offender

Provided as follows —

(a) When any information as to the commission of any such offence is given Where local investigation dispensed with. against any person by name and the case is not of a serious nature, the officer in charge of a police-station need not proceed in per-



son being within the limits of his own or any adjoining station who, from the information given otherwise, appears to be acquainted with the circumstances of the case; and such person shall attend as so required.

161. (1) Any police-officer making an investigation under this chapter may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer all questions relating to such case put to him by such officer other than questions the answers to which will have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

162. (1) No statement made by any person to a police-officer in the course of an investigation under this chapter shall, if taken down in writing, signed by the person making it, nor shall such statement be used as evidence:

Provided that, when any witness is called for the prosecution whose statement has been taken down in writing as aforesaid, the Court shall, on the request

proof and such statement may be used to impeach the credit of such witness in manner provided by the Indian Evidence Act, 1872

(2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of section 32, clause (1), of the Indian Evidence Act, 1872.

163. (1) No police-officer or other person is  
 No inducement to be offered authority shall offer or make, or  
 cause to be offered or made, any  
 such inducement, threat or promise as is mention  
 in the Indian Evidence Act, 1872, section 24.

(2) But no police-officer or other person shall pr  
 vent, by any caution or otherwise, any person fro  
 making in the course of any investigation under th  
 chapter any statement which he may be disposed t  
 make of his own free will.

164. (1) Every Magistrate not being a police  
 officer may record any statement  
 or confession made to him in the  
 course of an investigation under  
 this chapter or at any time afterwards before th  
 commencement of the inquiry or trial.

(2) Such statements shall be recorded in such of  
 the manners hereinafter prescribed for recording  
 evidence as is, in his opinion, best fitted for the cir  
 cumstances of the case. Such confessions shall be re  
 corded and signed in the manner provided in section  
 364, and such statements or confessions shall then  
 be forwarded to the Magistrate by whom the case is  
 to be inquired into or tried.

(3) No Magistrate shall record any such confes  
 sion unless,  
 he has reason  
 and when he records any confession, he shall make a  
 memorandum at the foot of such record to the follow  
 ing effect:—

“ I believe that this confession was voluntarily  
 made. It was taken in my presence and hearing  
 and was read over to the person making it, and at

by him to be correct, and it contains a full account of the statement made by him.

(Signed) A. B.,  
Magistrate."

*Explanation.*—It is not necessary that the Magistrate receiving and recording a confession or statement should be a Magistrate having jurisdiction in the case.

1. (1) Whenever an officer in charge of a police-station, or a police-officer making an investigation, considers the production of any document or thing necessary to the conduct of an investigation into an offence which he is authorized to investigate, there is reason to believe that a person to whom a summons or order under section 94 has been or will be issued will not or would not produce such document or thing according to the directions of the summons or order, or when such document or thing is known to be in the possession of any person, the officer may search or cause search to be made, in any place within the limits of the jurisdiction of which he is in charge, or to which he is attached.

(2) Such officer shall, if practicable, conduct the search in person.

(3) If he is unable to conduct the search in person, there is no other person competent to make the search present at the time, he may require any officer

to make, and the place to be searched; and such  
Cr. P. C. 1898—8.





diction to try the case or commit it for trial, and  
 considers further detention unnecessary, he may  
 order the accused to be forwarded to a Magistrate  
 having such jurisdiction.

(3) A Magistrate authorizing under this section  
 detention in the custody of the police shall record  
 reasons for so doing.

(4) . . . . .  
 . . . . . to whom he

168. When any subordinate police-officer has  
 made any investigation under  
 report of investi- this chapter, he shall report the  
 on by subordinate result of such investigation to  
 co-officer. officer in charge of the police-station.

169. If, upon an investigation under this chapter,  
 it appears to the officer in charge  
 release of accused of the police-station that there is  
 when evidence defi- not sufficient evidence or reason-  
 nt able ground of suspicion to justify the forwarding of

direct, to appear, if and when so required, before  
 the Magistrate to take cognizance of the  
 case to try the accused or

170. (1) If, upon an investigation under this  
 Case to be sent to  
 Magistrate when evi-  
 dence is sufficient.

reasonable ground as aforesaid, such officer shall for-



persons who executed it, and shall then send to the Magistrate the original with his report.

Complainants and witnesses not to be required to accompany police-officer.

officer ;

or shall be subject to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond :

Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer in charge of the police station may forward him in custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

172 (1) Every police-officer making an investigation under this chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

(2) Any Criminal Court may send for the police diaries of a case under investigation, and may use the same but to aid it in

accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to examine them merely because they are referred to by the Court ; but, if they are used by the police-officer who



Government in that behalf, on receiving information that a person—

- (a) has committed suicide, or
- (b) has been killed by another, or by an animal, or by machinery, or by an accident, or
- (c) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the nearest Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the Local Government, or by any general or special order of the District or Sub-divisional Magistrate, all proceed to the place where the body of such deceased person is, and there, in the presence of ten or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises, and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instruments (if any), such marks appear to have been inflicted.

(2) The report shall be signed by such police-officer and other persons, or by so many of them, as concur therein, and shall be forthwith forwarded to the District Magistrate or the Sub-divisional Magistrate.

(3) When there is any doubt regarding the cause of death, or when for any other reason, the police-officer considers it necessary, the police-officer shall direct the medical officer to examine the body, and to report to the police-officer the result of his examination.

view to its being examined, to the nearest Civil Surgeon or other qualified medical man appointed in this behalf by the Local Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction as the road as would render such examination useless.

(4) In the Presidency of Fort St. George and Bombay, investigations under this section may be made by the head of the village, who shall then report the result to the nearest Magistrate authorized to hold inquests.

(5) The following Magistrates are empowered to hold inquests, namely, and District Magistrate or Sub-divisional Magistrate, and any Magistrate specially empowered in this behalf by the Local Government or the District Magistrate.

175 (1) A police-officer proceeding under section 174 may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge, or to a penalty or forfeiture.

(2) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police-officer to attend a Magistrate's Court.

176 (1) When any person dies while in the custody of the police, the nearest Magistrate empowered to hold inquests shall, and, in any inquiry by Magistrate into cause of death.

other case mentioned in section 171 clauses (a), (b) and (c) of subsection (1), any Magistrate so empowered may, hold an inquiry into the cause of death, either instead of, or in addition to, the investigation held by the police-officer; and if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence. The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any of the manners hereinafter prescribed according to the circumstances of the case.

(2) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined

## PART IV.—PROCEEDINGS IN PROSECUTIONS

### CHAPTER XV.

#### OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS.

##### *A.—Place of Inquiry or Trial.*

177. Every offence shall ordinarily be enquired into and tried by a Court within the local limits of whose jurisdiction it was committed.

178. Notwithstanding anything contained in section 177, the Local Government may direct that any cases or class of cases committed for



trial in any district may be tried in any session-division :

Provided that such direction is not repugnant to any direction previously issued by the High Court under section 15 of the Indian High Courts Act, 1861, or under this Code, section 526.

179. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued.

#### *Illustrations.*

(a) A is wounded within the local limits of the jurisdiction of Court X, and dies within the local limits of the jurisdiction of Court Z. The offence of the culpable homicide of A may be inquired into or tried either by X or Z.

(b) A is wounded within the local limits of the jurisdiction of Court X, and is, during ten days, within the local limits of the jurisdiction of Court Y, and, during the ten days more, within the local limits of the jurisdiction of Court Z, unable in the local limits of the jurisdiction of either Court Y or Court Z, to follow his ordinary avocations. The offence of causing grievous hurt to A may be inquired into or tried by X, Y or Z.

(c) A is put in fear of injury within the local limits of the jurisdiction of Court X, and is thereby induced, within the local limits of the jurisdiction of Court Y, to deliver property to the person who put him in fear. The offence of extortion committed to A may be inquired into or tried either by X or Y.

(d) A is wounded in the Native State of Daroda and dies of his wounds in Poona. The offence of causing A's death may be inquired into and tried in Poona.

180. When an act is an offence by reason of its

Place of trial where  
act is offence by reason  
of relation to other offence.

relation to any other act which  
is also an offence or which would  
be an offence if the doer were  
capable of committing an offence,

a charge of the first-mentioned offence may be in-  
quired into or tried by a Court within the local limits  
of whose jurisdiction either act was done.

*Illustrations.*

(a) A charge of abetment may be inquired into or tried  
either by the Court within the local limits of whose juris-  
diction the abetment was committed, or by the Court with-  
in the local limits of whose jurisdiction the offence abetted  
was committed

(b) A charge of receiving or retaining stolen goods may  
be inquired into or tried either by the Court within the lo-  
cal limits of whose jurisdiction the goods were stolen, or by  
any Court within the local limits of whose jurisdiction any  
of them were at any time dishonestly received or retained.

(c) A charge of wrongfully concealing a person known to  
have been kidnapped may be inquired into or tried by the  
Court within the local limits of whose jurisdiction the  
wrongful concealing, or by the Court within the local limits  
of whose jurisdiction the kidnapping, took place.

181. (1) The offence of being a thug, of being a

Being a thug, or be-  
longing to a gang of  
dacoits, escape from  
custody

thug and committing murder, of  
dacoity, of dacoity with murder,  
or having belonged to a gang of  
dacoits, or of having escaped

from custody, may be inquired into or tried by a  
Court within the local limits of whose jurisdiction  
the person charged is.

(2) The offence of criminal misappropriation or

Criminal misappro-  
priation and criminal  
breach of trust.

of criminal breach of trust may  
be inquired into or tried by a  
Court within the local limits of

whose jurisdiction any part of the property which is the subject of the offence was received or retained by the accused person, or the offence was committed

(3) The offence of stealing anything may by a Court within the local limits of whose jurisdiction such thing was stolen or was possessed by the thief, or by any person who received or retained the same knowing or having reason to believe it to be stolen

(4) The offence of kidnapping or abduction may be inquired into or tried by a Court within the local limits of whose jurisdiction on the person kidnapped or abducted was kidnapped or abducted or was conveyed or concealed or detained

Place of inquiry or trial where section of law is uncertain

or not in one district only

or where offence is continuing,

or consists of several acts

it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

183 An offence committed whilst the offender is in the course of performing a journey or voyage may be inquired into or tried by a Court through or into the

182. When it is uncertain in which of several local areas an offence was committed, or

where an offence is committed partly in one local area and partly in another, or

where an offence is a continuing one, and continues to be committed in more local areas than one, or

where it consists of several acts done in different local areas

local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

184. All offences against the provisions of any law for the time being in force relating to Railways, Telegraph, Post-office or Arms and Ammunition may be inquired in a presidency-town whether the offence is stated to have been committed within such town or not :

Provided that the offender and all the witnesses necessary for his prosecution are to be found within such town.

185. (1) Whenever any doubt arises as to the Court by which any offence should under the preceding provisions of this chapter be inquired into or tried, the High Court, within the local limits of whose appellate criminal jurisdiction the offender actually is, may decide by which Court the offence shall be inquired into or tried.

186 (1) When a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate, or, if he is specially empowered in this behalf by the Government, is empowered to issue summons or warrant for offence committed beyond local jurisdiction

British India), an offence which cannot, under the provisions of sections 177 to 184 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under



ability of British  
acts for offences  
committed out of Brit-  
India.

188. When a Native Indian  
subject of Her Majesty commits  
an offence at any place without  
and beyond the limits of British

India or,

when any British subject commits an offence in  
territories of any Native Prince or Chief in  
India, or

when any British subject commits an offence in a British  
territories

he may be dealt with in respect of such offence  
if it had been committed at any place within Brit-  
India at which he may be found :

Provided that no charge as to any such offence  
shall be inquired into in British  
India unless the Political Agent,  
if there is one, for the territory  
which the offence is alleged to have been commit-  
ted, certifies that, in his opinion, the charge ought to  
be inquired into in British India ; and, where there  
is no Political Agent, the sanction of the Local Gov-  
ernment shall be required .

Provided, also, that any proceedings taken against  
any person under this section which would be a bar  
to subsequent proceedings against such person for the  
same offence if such offence had been committed  
in British India shall be a bar to further proceed-  
ings against him under the Foreign Jurisdiction  
and Extradition Act 1879, in respect of the same  
offence in any territory beyond the limits of British  
India.

189. Whenever any such offence as is referred

Power to direct copies of depositions and exhibits to be received in evidence

to in section 188 is being inquired into or tried, the Local Government may, if it thinks fit, direct that copies of depositions

made or exhibits produced before the Political Agent or a judicial officer in or for the territory in which such offence is alleged to have been committed, shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

*B.—Conditions requisite for Initiation of Proceedings*

190. (1) Except as hereinafter provided, any,   
 Cognizance of offences by Magistrate. Presidency Magistrate, District Magistrate, or Sub-divisional Magistrate, and any other Magistrate specially empowered in this behalf, may take cognizance of any offence—

- (a) upon receiving a complaint of facts which constitute such offence ;
- (b) upon a police-report of such facts ;
- (c) upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed.

(2) The Local Government, or the District Magistrate subject to the general or special orders of the Local Government, may empower any Magistrate to take cognizance under sub-section (1) clause (a) or clause (b), of offences for which he may try or commit for trial.

(3) The Local Government may empower any Magistrate of the first or second class to take cognizance

co under sub-section (1), clause (c) of offences or which he may try or commit for trial.

191. When a Magistrate takes cognizance of an offence under sub-section (1) clause (c) of the preceding section, the accused shall, before any evidence is taken, be informed that he is entitled to have the case tried by another Court, and if the accused, or any of the accused if there be more than one, objects to being tried by such Magistrate, the accused shall, instead of being tried by such Magistrate, be committed to the Court of Session, or transferred to another Magistrate.

192. (1) Any Chief Presidency Magistrate, District Magistrate, or Sub-divisional Magistrate may transfer any case, of which he has taken cognizance, for inquiry or trial, to any Magistrate subordinate to him.

(2) Any District Magistrate may empower any Magistrate of the first class who has taken cognizance of any case to transfer it for inquiry or trial to any other specified Magistrate in his district who is competent under this Code to try the accused or commit him for trial; and such Magistrate may dispose of the case accordingly.

193. (1) Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction unless the accused has been committed to it by a Magistrate duly empowered in that behalf.

(2) Additional Sessions Judges and Assistant Sessions Judges shall try such cases only as the Local





195. (1) No Court shall take cognizance—

(a) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code, except with the previous sanction, or on the complaint, of the public servant concerned or of some public servant to whom he is subordinate ;

Prosecution for contempt of lawful authority of public servants

(b) of any offence punishable under sections 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211, or 228 of the same Code, when such offence is committed in, or in relation to any proceeding in any Court, except with the previous sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate ;

Prosecution for certain offences against public justice

(c) of any offence described in section 463, or punishable under section 471, 475, or 476 of the same Code, when such offence has been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding except with the previous sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate.

Prosecution for certain offences relating to documents given in evidence.



such Court shall be deemed to be subordinate ;

[illegible]

ture of the case in connection with which the offence is alleged to have been committed ;

(c) where no appeal lies, such Court shall be deemed to be subordinate to the principal Court of original jurisdiction within the local limits of whose jurisdiction such first mentioned Court is situate.

196. No Court : : " " " " " "

Prosecution for offences against the State.

(except section 127), or punishable under section 108A, or section 153A, or section 291A, or section 505 of the same Code, unless upon complaint made by order of, or under authority from, the Governor-General in Council, the Local Government, or some officer empowered by the Governor-General in Council in this behalf

197. (1) When any Judge, or any public servant

Prosecution of Judges and public servants not removable from his office without the sanction of the Government of India or the Local Government, is accorded as such.

1.

power to order his removal, or of some officer empowered in this behalf by such Government, or of some Court or other authority to which such Judge



Provided as follows—

- (a) when the complaint is made in writing, nothing herein contained shall be deemed to require a Magistrate to examine the complainant before transferring the case under section 192 ;
- (b) where the Magistrate is a Presidency Magistrate, such examination may be on oath or not as the Magistrate in each case thinks fit, and need not be reduced to writing ; but the Magistrate may, if he thinks fit, before the matter of the complaint is brought before him, require it to be reduced to writing ;
- (c) when the case has been transferred under section 192, and the Magistrate so transferring it has already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re-examine the complainant.

201. (1) If the complaint has been made in writing to a Magistrate who is not competent to take cognizance of the case, he shall return the complaint for presentation to the proper Court with an endorsement to that effect.

(2) If the complaint has not been made in writing, such Magistrate shall direct the complainant to the proper Court

202 (1) If the Chief Presidency Magistrate, or any other Presidency Magistrate whom the Local Government may from time to time authorize in this behalf, or any Magistrate of the first or second class, is not

Postponement of issue of process



ding, and the case appears to be one in which, according to the fourth column of the second schedule, summons should issue in the first instance, he shall issue his summons for the attendance of the accused. If the case appears to be one in which, according to the fifth column, a warrant should issue in the first instance, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought to appear at a certain time before such Magistrate or (if he has not jurisdiction himself) some other Magistrate.

shall be deemed to

(3) When, by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid, and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.

205 (1) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused, and permit him to appear by his pleader

(2) But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in a manner hereinbefore provided.

## CHAPTER XVIII.

OF INQUIRY INTO CASES TRIABLE BY THE COURT OF  
SESSION OR HIGH COURT.

206. (1) Subject to the provisions of section 443, any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate, or District Judge may, if he is satisfied that it is expedient to do so, order that any person who has been sentenced to imprisonment for a term not exceeding three months, or to a fine not exceeding one hundred rupees, or to both, may be released on bail, subject to such conditions as he may think fit to impose.



satisfied as to the truth of a complaint of an offence of which he is authorized to take cognizance, he may, when the complainant has been examined, record his reasons, and may then postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself, or direct a previous local investigation to be made by any officer subordinate to such Magistrate, or by a police-officer, or by such other person, not being a Magistrate or police-officer, as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint.

(2) If such investigation is made by some person not being a Magistrate or a police-officer, he shall exercise all the powers conferred by this Code on an officer in charge of a police-station, except that he shall not have power to arrest without warrant.

(3) This section applies also to the police in the towns of Calcutta and Bombay.

203. The Magistrate before whom a complaint is made or to whom it has been transferred, may dismiss the complaint, if, after examining the complainant, and considering the result of the investigation (if any) made under section 202, there is in his judgment no sufficient ground for proceeding. In such case he shall briefly record his reasons for so doing.

## CHAPTER XVII.

### OF THE COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES.

204. (1) If, in the opinion of a Magistrate taking cognizance of an offence, there is sufficient ground for pro-  
Issue of process.

209. (1) When the evidence referred to in section 208, sub-sections (1) and (3), has been taken, and he has (if necessary) examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him, such Magistrate shall, if he finds that there are not sufficient grounds for committing the accused person for trial, record his reasons and discharge him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.

(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

210. (1) When, upon such evidence being taken and such examination (if any) being made, the Magistrate is satisfied that there are sufficient grounds for committing the accused for trial, he shall frame a charge under his hand, declaring with what offence the accused is charged.

(2) As soon as the charge has been framed, it shall be read and explained to the accused, and a copy thereof shall, if he so requires, be given to him free of cost.

211. (1) The accused shall be required at once to give in, orally or in writing, a list of the persons (if any) whom he wishes to be summoned to give evidence on his trial.



ly with an European British subject, who is to be committed for trial, or to be tried before the High Court on a similar charge arising out of the same transaction, and the Magistrate finds there are sufficient grounds for committing the accused for trial, he shall commit him for trial before the High Court, and not before the Court of Session.

215. A commitment once made under section 213 or section 214 by a competent Magistrate or by a Court of Session under section 477, by a Civil or Revenue Court under section 478, shall not be quashed by the High Court only, and only on a point of law.

216. When the accused has given in any list of witnesses under section 211, and has been committed for trial, the Magistrate shall summon such of the witnesses included in the list as have not appeared before himself, to appear before the Court to which the accused has been committed.

Provided that, where the accused has been committed to the High Court, the Magistrate may, in his discretion, leave such witnesses to be summoned by the Clerk of the Crown, and such witnesses may be summoned accordingly :

Provided, also, that if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for summoning the witness.



re of the commitment and the form of the charge;

and shall send the charge, the record of the inquiry, and any weapon or other thing which is to be produced in evidence, to the Court of Session or (where the commitment made to the High Court) to the Clerk of the Court, or other officer appointed in this behalf by the High Court.

(2) When the English translation be forwarded to the Court, the English translation of such part shall be forwarded with the record.

219. (1) The Magistrate may, if he thinks fit, summon and examine supplementary witnesses after the commitment and before the commencement of the trial, and bind them over in manner hereinbefore provided to appear and give evidence.

(2) Such examination shall, if possible, be taken in the presence of the accused, and, where the Magistrate is not a Presidency Magistrate, a copy of the evidence of such witnesses shall, if the accused so require, be given to him free of cost.

220. Until and during the trial, the Magistrate shall, subject to the provisions of this Code regarding the taking of bail, commit the accused, by warrant, to custody.

## CHAPTER XIX.

## OF THE CHARGE.

*Form of Charges.*

221. (1) Every charge under this Code shall state the offence with which the accused is charged.

(2) If the law which creates the offence gives it a specific name, the offence may be described in the charge by that name only.

(3) If the law which creates the offence does not give it any specific name, much of the definition of the offence must be stated in the charge to give the accused notice of the matter with which he is charged.

(4) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

(5) The fact that the charge is made is equivalent to a statement that every charge is made in a particular case.

(6) In the presidency-towns the charge shall be written in English; elsewhere it shall be written either in English, or in the language of the Court.

(7) If the accused has been previously convicted of any offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court is competent to award, the

fact, date and place of the previous conviction shall be stated in the charge. If such statement is omitted, the Court may add it at any time before sentence is passed.

### *Illustrations.*

... at the order of B. This is contrary,

section I., one or other of the three provisos to that section applied to it

(b) A is charged, under section 326 of the Indian Penal Code, with voluntarily causing grievous hurt to B by means of an instrument for shooting. This is equivalent to a

(c) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, cheating, or theft, or extortion, or adultery, or criminal ... and a false property-mark, without ... contained in the ... which the offence ... referred to in the charge

(d) A is charged, under section 184 of the Indian Penal Code, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

222. (1) The charge shall contain such particulars

Particulars  
time, place.

... any) against whom, or the thing  
if any) in respect of which, it was committed, as are





(c) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(f) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

224. In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

225. No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was in fact misled by such error or omission, and it has occasioned a failure of justice.

### *Illustrations.*

regarded as material

(b) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(c) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There



that he has in his possession instruments for the purpose of counterfeiting coin. A charge under section 235 of the Indian Penal Code cannot be added.

227. (1) Any Court may alter or add to any Court may alter charge at any time before judgment is pronounced, or in the case of trials before the Court of Session or High Court, before the verdict of the jury is returned or the opinions of the assessors are expressed.

(2) Every such alteration or addition shall be read and explained to the accused

228. If the charge framed or alteration or addition made under section 226 or section 227 is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such charge or alteration or addition has been framed or made, proceed with the trial as if the new or altered charge had been the original charge.

229. If the new or altered or added charge is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial, or adjourn the trial for such period as may be necessary.

230. If the offence stated in the new or altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless

Stay of proceedings  
of prosecution of of-  
fence in altered charge  
require previous sanc-  
tion

sanction has been already obtained for a prosecution on the same facts as those on which the new or altered charge is founded.

231. Whenever a charge is altered or added to Recall of witnesses by the Court after the com- when charge altered. mencement of the trial, the prosecutor and the accused shall be allowed to recall or re-summon, and examine with reference to such alteration or addition, any witness who may have been examined, and also to call any further witness whom the Court may think to be material.

232. (1) If any Appellate Court, or the High Court in the exercise of its powers of revision, or of its error powers under Chapter XXVII, is of opinion that any person convicted of an offence was misled in his defence by the absence of a charge or by an error in the charge, it shall direct a new trial to be had upon a charge framed in whatever manner it thinks fit.

(2) If the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

### *Illustration.*

A is convicted of an offence, under section 100 of the Indian Penal Code, upon a charge which omits to state that he knew the evidence, which he corruptly used or attempted to use as true or genuine, was false or fabricated. If the Court thinks it probable that A had such knowledge, and that he was misled in his defence, by the omission from the charge of the statement that he had it, it shall direct a new trial upon an amended charge; but, if it appears from the proceedings that A had no such knowledge, it shall quash the conviction.

*Joinder of Charges.*

3. For every distinct offence of which any person is accused there shall be a separate charge, and every charge shall be tried separately, except in the cases mentioned in sections 234, 235, 236 and 239.

*Illustration.*

A is accused of a theft on one occasion, and of a causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and causing grievous hurt.

34. (1) When a person is accused of more than one offence of the same kind committed within the space of twelve months from the first to the last of such offences, he may be charged with, and tried at one trial for, any number of them not exceeding three.

(2) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal Code, or by special or local law.

35. (1) If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

(2) If the acts alleged constitute an offence only

36. If the person accused of them may be charged with, and tried at one trial for, each of such offences.

(3) If several acts, of which one or more than one would, by itself or themselves constitute an offence, constitute a different offence, when combined a different offence, the person accused of those acts may be charged with, and tried at one trial for, the offence constituted by such acts when combined, and for any offence constituted by any one, or more, of such acts.

(4) Nothing contained in this section shall affect the Indian Penal Code, section 71.

#### *Illustrations—*

*to sub-section (1) :*

(a) A receives B's money in lawful custody and is charged with

Code.

(b) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with her. A may be separately charged with each offence.

(c) A entices B, the wife of C, away from C, with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with each offence, and convicted of, offences under sections 498 and 497 of the Indian Penal Code.

(d) A has in his possession several seals, knowing that they are stolen, and is charged with possession of stolen property under section 473 of the Indian Penal Code.

(e) With intent to cause injury to B, A institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding; and also falsely

accuses B of having committed an offence, knowing that there is no just or lawful ground for such charges. A may be separately charged with, and convicted of, two offences under section 211 of the Indian Penal Code.

(f) A, with intent to cause injury to B, falsely accuses

Code

(h) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, and convicted of, each of the three offences under section 506 of the Indian Penal Code.

The separate charges referred to in illustrations (a) to (h) respectively may be tried at the same time

to sub-section (2)

(i) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code.

(j) Several stolen sacks of corn are made over to A and B, who know they are stolen property, for the purpose of concealing them. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code.

(k) A exposes her child with the knowledge that she is thereby likely to cause its death. The child dies in con-





137. (1) If, in the case mentioned in section 236, the accused is charged with an offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

(2) When the accused is charged with an offence, he may be convicted of having attempted to commit that offence, although the attempt is not separately charged.

*Illustration.*

A is charged with theft. It appears that he committed an offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust or of receiving stolen goods (as the case may be) though he was not charged with such offence.

238. (1) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved, he may be convicted of that minor offence.

is not charged with it.

(3) Nothing in this section shall be deemed to authorize a conviction of any offence referred to in section 198 or section 199 when no complaint has been made as required by that section.

*Illustrations.*

(a) A is charged, under section 407 of the Indian Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he committed criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

239. When more persons than one are accused of the same offence or of different offences committed in the same transaction, or when one person is accused of committing any offence, and another of abetting or attempting to commit, such offence, they may be charged and tried together or separately, as the Court thinks fit; and the provisions contained in the former part of this chapter shall apply to all such charges.

*Illustrations.*

(a) A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(b) A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery, and A alone with the murder.

(c) A and B are both charged with a theft, and B is also charged with two other thefts committed by him in the course of the same transaction. A and B may be tried together on a charge charging both with the one theft, and B alone with two other thefts.

240. When a charge containing more heads than one is framed against the same person, and when a conviction has been had on one or more of them, the complainant, or the officer conducting the prosecution, may, with the consent of the Court, withdraw the remaining charge or

charges, unless the conviction be set do, in which case the said Court (subject to the order of the Court setting aside the conviction), may proceed with the inquiry into or trial of the charge or charges so withdrawn.

## CHAPTER XX.

OF THE TRIAL OF SUMMONS-CASES BY MAGISTRATES.

241. The following procedure shall be observed by Magistrates in the trial of summons-cases:—

242. When the accused appears or is brought before the Magistrate, the nature of the accusation to be stated.

The accused shall be asked if he has any cause to show why he should not be convicted; but it shall not be necessary to frame a formal charge.

243. If the accused admits that he has committed the offence of which he is accused, his admission shall be recorded as nearly as possible in the words used by him; and, if he shows no sufficient



247. If the summons has been issued on com-

plaint, and the complainant does not appear, the Magistrate shall, notwithstanding anything hereinbefore contained, acquit the accused, unless some reason be thinks proper to adjourn the hearing of the case to some other day :

Provided that, where the complainant is a public servant and his personal attendance is not required, the Magistrate may dispense with his attendance, and proceed with the case.

248. If a complainant, at any time before a final order is passed in any case under this chapter, satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the Magistrate may permit him to withdraw the same, and shall thereupon acquit the accused.

249. In any case instituted otherwise than upon complaint, a Presidency Magistrate, a Magistrate of the first class, or, with the previous sanction of the District Magistrate, any other Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment, either of acquittal or conviction, and may thereupon release the accused.

*Frivolous Accusations in Summons and Warrant-cases.*

250. (1) If, in any case instituted by complaint as defined in this Code, or upon information given to a police-officer or to a Magistrate, a person is accused before

■ Magistrate of any offence triable by a Magistrate and the Magistrate by whom the case is heard discharges or acquits the person against whom the accusation was made, the Magistrate may, on granting discharge or acquittal, direct the person upon whose complaint or information the accusation was made to pay to the accused, or to each of the accused where there are more than one, such compensation, not exceeding fifty rupees, as the Magistrate thinks fit.

Provided that, before making any such direction the Magistrate shall—

- (a) record and consider any objection which the complainant or informant may make against the making of the direction; and
- (b) if the Magistrate directs any compensation to be paid, state in writing, in his order of discharge or acquittal, his reasons for awarding the compensation.

(2) Compensation of which a Magistrate has ordered payment under sub-section (1) shall be recoverable as if it were a fine :

Provided that, if it cannot be recovered, the imprisonment to be awarded shall be simple, and of such term, not exceeding thirty days, as the Magistrate directs.

(3) A complainant or informant who has been ordered under sub-section (1) by a Magistrate of the second or third class to pay compensation to an accused person may appeal from the order, in so far as the order relates to the payment of the compensation, as if such complainant or informant had been convicted on a trial held by such Magistrate.

(4) Where an order for payment of compensation an accused person is made in a case which is sub-  
t to appeal under sub-section (3), the compensation  
ill not be paid to him before the period allowed  
: the presentation of the appeal has elapsed, or, if  
appeal is presented, before the appeal has been  
cided.

(5) At the time of awarding compensation in any  
bsequent civil suit relating to the same matter, the  
urt shall take into account any compensation paid  
recovered under this section.

## CHAPTER XXI.

### OF THE TRIAL OF WARRANT-CASES BY MAGISTRATES.

Procedure in war- 251. The following proce-  
at-cases dure shall be observed by Magis-  
ates in the trial of warrant-cases :—

252 (1) When the accused appears or is brought  
Evidence for prose- before a Magistrate, such Magis-  
tion. trate shall proceed to hear the  
omplainant (if any), and take all such evidence as  
ay be produced in support of the prosecution.

(2) The Magist ate shall ascertain, from the com-  
lainant or otherwise, the names of any persons likely  
be acquainted with the facts of the case and to be  
ble to give evidence for the prosecution, and shall  
ammon to give evidence before himself such of them  
s he thinks necessary.

253. (1) If, upon taking all the evidence referred  
Discharge of accus- to in section 252, and making  
d. such examination (if any) of the  
ccused as the Magistrate thinks necessary, he finds  
hat no case against the accused has been made out



# 134 TRIAL OF WARRANT-CASES BY MAGISTRATES.

which, if un rebutted, would warrant his conviction; the Magistrate shall discharge him.

(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

254. If, when such evidence and examination have been taken and made, a charge to be framed when offence appears proved at any previous stage of the case, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this charge, which such Magistrate is competent to try, and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

255. (1) The charge shall then be read and explained to the accused, and he shall be asked whether he is guilty or has any defence to make.

(2) If the accused pleads guilty, the Magistrate shall record the plea, and may in his discretion convict him thereon.

256. (1) If the accused refuses to plead, or does not plead, or claims to be tried by a jury, he shall be required to state whether he wishes to cross-examine any, and, if so, which of the witnesses for the prosecution whose evidence he wishes to dispute.

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 hey . . . . .  
 hen . . . . .  
 produce his evidence.

(2) If the accused puts in any written statement, the Magistrate shall file it with the record.

257. (1) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay, or for defeating the ends of justice. Such ground shall be recorded by him in writing :

Provided that, when the accused has cross-examined, or had the opportunity of cross-examining, any witness after the charge is framed, the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the purposes of justice.

ing any  
 reason-  
 purposes  
 of the trial be deposited in Court.

258. (1) If in any case under this chapter in which a charge has been framed the Magistrate finds the accused not guilty, he shall record an order of acquittal.

(2) If in any such case the Magistrate finds the accused guilty, he shall pass sentence upon him according to law.

Conviction.



- (e) receiving or retaining stolen property, under section 411 of the same Code, where the value of such property does not exceed fifty rupees ;
- (f) assisting in the concealment or disposal of stolen property, under section 414 of the same Code, where the value of such property does not exceed fifty rupees ;
- (g) mischief, under section 427 of the same Code ;
- (h) house-trespass, under section 448, and offences under sections 451, 456 and 457, of the same Code ;
- (i) insult with intent to provoke a breach of the peace, under section 504, and criminal intimidation, under section 506, of the same Code ;
- (j) abetment of any of the foregoing offences ,
- (k) an attempt to commit any of the foregoing offences, when such attempt is an offence ;
- (l) offences under section 20 of the Cattle Trespass Act, 1871.

Provided that no case in which a Magistrate exercises the special powers conferred by section 34 shall be tried in a summary way.

trate or Bench shall recall any witnesses who may have been examined and proceed to rehear the case in manner provided by this Code.

261. The Local Government may confer on an Bench of Magistrates invested with the powers of a Magistrate of the second or third class power to try summarily all or any of the following offences :—

(a) offences against the Indian Penal Code, sections 277, 278, 279, 285, 286, 290, 292, 293, 294, 323, 334, 336, 341, 352, 426 and 447,

(b) offences against Municipal Acts and the conservancy clauses of Police Acts which are punishable only with fine, or with imprisonment for a term not exceeding one month ;

(c) abetment of any of the foregoing offences,

(d) an attempt to commit any of the foregoing offences, when such attempt is an offence

262. (1) In trials under this chapter, the procedure prescribed for summons-cases shall be followed in summons-cases, and the procedure prescribed for warrant-cases shall be followed in warrant-cases, except as hereinafter mentioned.

(2) No sentence of imprisonment for a term exceeding three months shall be passed in the case of any conviction under this chapter.

263. In cases where no appeal lies, the Magistrate or Bench of Magistrates need not record the evidence of the witnesses or frame a formal charge; but he or they shall enter in such form as the Local Government may direct the following particulars :—

- (a) the serial number ;
- (b) the date of the commission of the offence ;
- (c) the date of the report or complaint ;
- (d) the name of the complainant (if any) ;
- (e) the name, parentage and residence of the accused ;
- (f) the offence complained of and the offence (if any) proved, and in cases coming under clause (d), clause (e), clause (f) or clause (g) of sub-section (1) of section 260 the value of the property in respect of which the offence has been committed ;
- (g) the plea of the accused and his examination (if any) ;
- (h) the finding, and, in the case of a conviction, a brief statement of the reasons therefor ;
- (i) the sentence or other final order ; and
- (j) the date on which the proceedings terminated.

264. (1) In every case tried summarily by a Magistrate or Bench in which an appeal lies, such Magistrate or Bench shall, before passing sentence, record a judgment embodying the substance of the evidence and also the particulars mentioned in section 263.

(2) Such judgment shall be the only record in cases coming within this section.

265. (1) Records made under section 263 and Language of record judgments recorded under section 264 shall be written by the Bench and judgment the Bench or in the language of the Bench as directed by the Bench president.

(2) The Local Government may authorize any Bench of Magistrates empowered to try offences summarily to employ the aforesaid record or judgment prepared by a Bench appointed in the Bench is immediately subordinate, and the record or judgment prepared shall be signed by each member of the Bench present taking part in the proceedings.

(3) If no such authorization be given, the record prepared by a member of the Bench and signed as aforesaid shall be the proper record.

(4) If the Bench differ in opinion, any dissentient member may write a separate judgment.

## CHAPTER XXIII.

### OF TRIALS BEFORE HIGH COURTS AND COURTS OF SESSION.

#### A.—Preliminary.

266. In this chapter, except in sections 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, and in Chapter XVIII, the expression "High Court" means a High Court of Judicature established or to be established under the Indian High Courts Act, 1925.

includes the Chief Court of the Punjab, the Court of Lower Burma, and such other Courts as the Governor-General in Council may, by notification in the Gazette of India, declare to be High Courts for the purposes of this chapter.

267. All trials under this chapter before a High Court shall be by jury ;

and, notwithstanding anything herein contained, in all criminal cases transferred to a High Court under this Code, or under the Letters Patent of any High Court established under the Indian High Courts Act, 1861, the trial may if the High Court so directs, be by jury.

268. All trials before a Court of Session shall be either by jury, or with the aid of assessors.

269. (1) The Local Government may, with the previous sanction of the Governor-General in Council, by order, in the official Gazette, direct that the trial of all offences, or of any particular class of offences, before any Court of Session, shall be by jury in any district, and may, with the like sanction, revoke or alter such order.

(2) The Local Government, by like order, may also declare that, in the case of any district in which a trial of any offence is to be by jury, the trial of such offences shall, if the Judge, on application made to him or of his own motion, so directs, be by assessors summoned from a special jury list, and may revoke or alter such order.

(3) When the accused is charged at the same trial with several offences of which some are and



some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury and by the Court of Session, with the aid of twelve jurors as assessors, for such of them as are triable by jury.

Trial before Court of Session to be conducted by Public Prosecutor.

270. In every trial before a Court of Session, the prosecution shall be conducted by a Public Prosecutor.

### *B — Commencement of Proceedings.*

271. (1) When the Court is ready to commence the trial, the accused shall appear or be brought before it, the charge shall be read out in Court and explained to him and he shall be asked whether he is guilty of the offence charged, or claims to be tried.

(2) If the accused pleads guilty, the plea shall be received and he may be convicted thereon.

272. If the accused refuses to, or does not plead, or if he claims to be tried by jury, the Court shall proceed to try the case with twelve jurors or assessors as hereinafter directed and try the case.

Provided that subject to the right of objection hereinafter mentioned the Court may try, or the jurors or assessors may aid in the trial of, as many accused persons as the Court thinks fit.

273. (1) In trials before the High Court, when it appears to the High Court at any time before the commencement of the trial that the accused is charged with an offence which is triable by jury, the Court may, if it thinks fit, order that the trial shall be conducted by a jury of twelve persons, or by a jury of twelve persons and such number of assessors as the Court may think fit.

ent of the trial of the person charged, that any charge or any portion thereof is clearly unsustainable, the Judge may make on the charge an entry to that effect.

(2) Such entry shall have the effect of staying proceedings upon the charge or portion of the charge, as the case may be.

### *C—Choosing a Jury.*

274. (1) In trials before the High Court, the jury shall consist of nine persons

(2) In trials of jury before the Court of Session the jury shall consist of such uneven number, not being less than three, or more than nine, as the local Government, by order applicable to any particular district or to any particular class of cases in that district, may direct.

275. In a trial by jury before the Court of Session of a person not being an European or an American, a majority of the jury shall, if he so desires, consist of persons who are neither Europeans nor Americans.

276. The jurors shall be chosen by lot from the persons summoned to act as such in such manner as the High Court may from time to time by rule direct :

Provided that—

first, pending the issue under this section of rules for any Court, the practice now prevailing in such Court in respect to the choosing of jurors shall be followed ;

*secondly*, in case of a deficiency of persons not summoned, the number of persons not summoned, the number of persons required may, with the leave of the Court, be chosen from such other persons as may be present :

trials before special jurors, *thirdly*, in the presidency-towns,

(a) if the accused person is charged with having committed an offence punishable with death, or

(b) if in any other case a Judge of the Court so directs,

the jurors shall be chosen from the special list hereinafter prescribed ; and

*fourthly*, in any district for which the Government has declared that the trial of offences may be by special jury, the jurors shall be chosen in any case in which the Judge so directs, be chosen from the special jury list prescribed in section 277.

277. (1) As each juror is chosen, his name shall be called aloud, and he shall be asked if he objects to be tried by such jury.

(2) Objection may then be taken to such juror by the accused or by the prosecutor, and the grounds of objection shall be stated :

Provided that, in the High Court, objection without grounds stated shall not be allowed to the number of jurors on behalf of the Crown and eight on behalf of any person or all the persons charged.

Any objection taken to a juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed :—

some presumed or actual partiality in the juror ;

some personal ground, such as alienage, deficiency in the qualification required by any law or rule having the force of law for the time being in force, or being under the age of twenty-one or above the age of sixty years ;

his having by habit or religious vows relinquished all care of worldly affairs ;

his holding any office in or under the Court ;

his executing any duties of police or being entrusted with police-duties ;

his having been convicted of any offence which, in the opinion of the Court, renders him unfit to serve on the jury ;

his inability to understand the language in which the evidence is given, or when such evidence is interpreted, the language in which it is interpreted ;

any other circumstance which, in the opinion of the Court, renders him improper as a juror.

(1) Every objection taken to a juror shall be decided by the Court, and such decision shall be recorded, and be final.

(2) If the objection is allowed, the place

Supply of place of juror shall be supplied  
juror against whom other juror attending in  
objection allowed.

ence to a summons and  
in manner provided by section 276, or if there  
such other juror present, then by any other  
present in the Court whose name is on the  
jurors, or whom the Court considers a proper  
to serve on the jury :

Provided that no objection to such juror or  
person is taken under section 278 and allowed

280. (1) When the jurors have been called

Foreman of jury.

they shall appoint one of  
number to be foreman.

(2) The foreman shall preside in the deliberations  
the jury, deliver the verdict of the jury, and ask  
information from the Court that is required by  
jury or any of the jurors.

(3) If a majority of the jury do not, within  
time as the Judge thinks reasonable, agree on the  
appointment of a foreman, he shall be appointed  
the Court.

281 When the foreman has been appointed

Swearing of jurors.

the jurors shall be sworn to  
the Indian Oaths Act, 1873

282. (1) If, in the course of a trial by jury,

Procedure when juror  
ceases to attend.  
&c

any time before the return of  
verdict, any juror, from any  
cause, ceases to attend

attending

sends his

attendance, or if it appears that any juror is unable  
to understand the language in which the evidence is  
given, or, when such evidence is interpreted

language in which it is interpreted, a new juror shall be added, or the jury shall be discharged, and a new jury chosen.

(2) In each of such cases the trial shall commence anew.

283. The Judge may also discharge the jury whenever the prisoner becomes incapable of standing at the bar

#### *D—Choosing Assessors.*

281. When the trial is to be held with the aid of assessors, two or more shall be chosen, as the Judge thinks fit, from the persons summoned to act as such.

285. (1) If, in the course of a trial with the aid of assessors, at any time before the finding, any assessor is, from any sufficient cause, prevented from attending throughout the trial, or absents himself, and it is not practicable to enforce his attendance, the trial shall proceed with the aid of the other assessor or assessors.

(2) If all the assessors are prevented from attending, or absent themselves, the proceedings shall be stayed and a new trial shall be held with the aid of fresh assessors.

#### *E.—Trial to Close of Cases for Prosecution and Defence.*

286. (1) When the jurors or assessors have been chosen, the prosecutor shall open his case by reading from the Indian Penal Code or other law the description of the

offence charged, and stating shortly by what evidence he expects to prove the guilt of the accused.

Examination of witnesses.

(2) The prosecutor then examine his witnesses:

287. The examination of the accused duly recorded by or before the committing Magistrate shall be treated by the prosecutor and as evidence.

Examination of accused before Magistrate to be evidence.

288. The evidence of a witness duly taken

Evidence given at the presence of the accused preliminary inquiry for the committing Magistrate may, in the discretion of the presiding Judge, if such witness is produced and examined, be treated as evidence in the case.

289. (1) When the examination of the witness

Procedure after examination of witnesses for the prosecution and the examination (if any) of the accused are concluded, the accused shall be asked whether he means to adduce evidence.

(2) If he says that he does not, the prosecutor may sum up his case; and, if the Court considers that there is no evidence that the accused committed the offence, the offer of a verdict of acquittal may be made.

(3) If the accused, or any one of several accused, says that he means to adduce evidence, and the Court considers that there is no evidence that the accused committed the offence, the Court may then, in a case tried with the aid of assessors, record a finding, or in a case tried by a jury, direct the jury to return a verdict of not guilty.

(4) If the accused, or any one of several accused, states that he means to adduce evidence, and the Court considers that there is evidence that he committed the offence, or if, on his saying that he does not mean to adduce evidence, the prosecutor sums up his case, and the Court considers that there is evidence that the accused committed the offence, the Court shall allow the accused to enter on his defence.

290. The accused or his pleader may then open his case, stating the facts or law on which he intends to rely, and making such comments as he thinks necessary on the evidence for the prosecution. He may then examine witnesses (if any), and, after their cross-examination and re-examination (if any), may sum up his case.

291. The accused shall be allowed to examine any witness not previously named by him, if such witness is in attendance; but he shall not, except as provided in sections 230 and 231, be entitled of right to have any witness summoned, other than the witnesses named in the list delivered to the Magistrate by whom he was committed for trial.

292. If the accused or any of the accused, adduces any evidence, the prosecutor shall be entitled to reply.

293. (1) If it is alleged that the offence was committed in a place in which any other transaction material to the case is alleged to have occurred, the Court shall



make an order to that effect, and the jury or assessors shall be conducted in a body, under the escort of an officer of the Court, to such place, which shall be shown to them by a person appointed by the Court.

(2) Such officer shall not, except with the permission of the Court, suffer any other person to enter, or hold any communication with, any of the jury or assessors, and unless the Court otherwise direct they shall, when the view is finished, be immediately conducted back into Court.

294. If a juror or assessor is personally acquainted with any relevant fact, it shall be his duty to inform the Judge of that fact. He may be sworn, examined, cross-examined and re-examined in the same manner as any other witness.

295. If a trial is adjourned, the jury or assessors shall attend at the adjourned sitting, and at every subsequent sitting, until the conclusion of the trial.

296. The High Court may, from time to time, make rules as to keeping the jury together during a trial before such Court lasting for more than one day: and subject to such rules, the presiding Judge may decide whether and in what manner the jurors shall be kept together under the charge of an officer of the Court, or whether they shall be allowed to return to their respective homes.

### *F.—Conclusion of Trial in Cases tried by Jury*

297. In cases tried by jury, when the case is closed, the defence and the prosecution shall be called on to state their case to the jury, and the jury shall then retire to consider their verdict. The charge to the jury shall be made by the Judge, and the jury shall be allowed to retire to their respective homes.

Court shall proceed to charge the jury, summing up the evidence for the prosecution and defence, and laying down the law by which the jury are to be guided

298. (1) In such cases it is the duty of the Judge—

- Duty of Judge
- (a) to decide all questions of law arising in the course of the trial, and especially all questions as to the relevancy of facts which it is proposed to prove, and the admissibility of evidence or the propriety of questions asked by or on behalf of the parties; and in his discretion, to prevent the production of inadmissible evidence, whether it is or is not objected to by the parties;
  - (b) to decide upon the meaning and construction of all documents given in evidence at the trial;
  - (c) to decide upon all matters of fact which it may be necessary to prove in order to enable evidence of particular matters to be given;
  - (d) to decide whether any question which arises is for himself or for the jury, and upon this point his decision shall bind the jurors.

(2) The Judge may, if he thinks proper, in the course of his summing up, express to the jury his opinion upon any question of fact, or upon any question of mixed law and fact, relevant to the proceeding.

### *Illustrations.*

(a) It is proposed to prove a statement made by a person not being a witness in the case, on the ground that



It is the duty of the jury to decide which view of the

(b) The question is whether a person entertained a reasonable belief on a particular point—whether work was done with reasonable skill or due diligence

Each of these is a question for the jury.

300. In cases tried by jury, after the Judge has finished his charge, the jury may retire to consider their verdict.

Except with the leave of the Court, no person other than a juror shall speak to, or hold any communication with, any member of such jury.

301. When the jury have considered their verdict, the foreman shall inform the Judge what is their verdict, or what is the verdict of a majority.

302. If the jury are not unanimous, the Judge may require them to retire for further consideration. After such a period as the Judge considers reasonable, the jury may deliver their verdict, although they are not unanimous.

303. (1) Unless otherwise ordered by the Court, the jury shall return a verdict on all the charges on which the accused is tried, and the Judge may ask them such questions as are necessary to ascertain what their verdict is.

Questions and answers to be recorded (2) Such questions and the answers to them shall be recorded.

304. When by accident or mistake a wrong verdict is delivered, the jury may, before or immediately after it is

Amending verdict

recorded, amend the verdict, and it shall stand ultimately amended.

305. (1) When in a case tried before a High Court, the jury are unanimous in their opinion, or when as many as six are of one opinion, and the Judge agrees with them, the Judge shall give judgment in accordance with such opinion.

(2) When in any such case the jury are satisfied that they will not be unanimous, but six of them are of one opinion, the foreman shall so inform the Judge.

(3) If the Judge disagrees with the majority, he shall once discharge the jury.

(4) If there are not so many as six who agree in opinion, the Judge shall, after the lapse of such time as he thinks reasonable, discharge the jury.

306. (1) When in a case tried before the Court of Session the Judge does not think it necessary to express disagreement with the verdict of the jurors or of a majority of the jurors, he shall give judgment accordingly.

(2) If the accused is acquitted, the Judge shall record judgment of acquittal. If the accused is convicted, the Judge shall pass sentence on him according to law.

307. (1) If in any such case the Judge disagrees with the verdict of the jurors or of a majority of the jurors, on all or any of the charges on which the accused has been tried, and it is clearly of opinion that it is necessary for the ends of justice to submit the case to the High Court, he shall so

the case accordingly, recording the grounds of his opinion, and, when the verdict is one of acquittal stating the offence which he considers to have been committed

(2) Whenever the Judge submits a case under his section, he shall not record judgment of acquittal or of conviction on any of the charges on which the accused has been tried, but he may either remand the accused to custody, or admit him to bail.

(3) In dealing with the case so submitted the High Court may exercise any of the powers which it may exercise on an appeal, and subject thereto it shall, after considering the entire evidence and after giving due weight to the opinions of the Sessions Judge and the jury, acquit or convict the accused of any offence of which the jury could have convicted him upon the charge framed and placed before it; and, if it convicts him may pass such sentence as might have been passed by the Court of Session.

*G.—Re-trial of Accused after Discharge of Jury.*

308. Whenever the jury is discharged, the accused shall be detained in custody or on bail (as the case may be) and shall be tried by another jury unless the accused be re-tried, in which case the entry to that effect shall operate as

*H.—Conclusion of Trial in Cases tried with Assessors.*

309. (1) When, in a case tried with the aid of assessors, the case for the defence and the prosecutor's reply (if any) are concluded, the Court may sum up the evidence



or the Court and the assessors (as the case may be), shall then hear evidence concerning such previous conviction, and in such case (where the trial is by jury) it shall not be necessary to swear the jurors again.

11. Notwithstanding anything in the last foregoing section, evidence of the previous conviction may be given at the trial for the subsequent offence, if the fact of the previous conviction is relevant under the provisions of the Indian Evidence Act, 1872.

*List of Jurors for High Court, and summoning Jurors for that Court.*

12. The names of not more than four hundred members of special persons shall at any one time be entered in the special jurors' list.

13. (1) The Clerk of the Crown shall, before the first day of April in each year, and subject to such rules as the High Court from time to time prescribes, pre-

(a) a list of all persons liable to serve as common jurors ; and

(b) a list of persons liable to serve as special jurors only.

- (2) Regard shall be had, in the preparation of the latter list, to the property, character and education of the persons whose names are entered therein.

- (3) No person shall be entitled to have his name entered in the special juror's list merely because he



may have been entered in the special jurors' list : a previous year,

(4) The Governor-General in Council in the case of the High Court at Fort William in Bengal, as in the case of other High Courts, the Local Government, may exempt any salaried officer of Government from serving as a juror.

(5) The Clerk of the Crown shall, subject to the Discretion of officer rules as aforesaid, have full discretion to prepare the said lists as seems to him to be proper, and there shall be no appeal from, or review of, his decision.

314. (1) Preliminary lists of persons liable to serve as common jurors and special jurors, respectively, shall be published once in the local official Gazette before the fifteenth day of April next after their preparation.

(2) Revised list of persons liable to serve as common jurors and special jurors, respectively, shall be published once in the local official Gazette before the first day of May next after their preparation.

(3) Copies of the said lists shall be affixed to some conspicuous part of the Court-house.

315. (1) Out of the persons named in the revised lists aforesaid, there shall be summoned for each sessions in each presidency-town at least twenty-seven of those who are liable to serve on special juries, and fifty-four of those who are liable to serve on common juries.

(2) No person shall be so summoned more than once in six months unless the number cannot be made without him.

3) If, during the continuance of any sessions, it appears that the number of persons so summoned is not sufficient, such number as may be necessary of other persons liable to serve as aforesaid shall be summoned at such sessions.

316. Whenever a High Court has given notice among jurors of its intention to hold sittings at any place outside the presidency-towns for the exercise of its criminal jurisdiction, the Court of Session at that place shall, subject to any direction which may be given by the High Court, summon a sufficient number of jurors from its own list, in the manner hereinafter prescribed for summoning jurors to the Court of Session.

317. (1) In addition to the persons so summoned as jurors, the said Court of Session shall, if it thinks needful, in communication with the commanding officer, cause to be summoned such number of commissioned and non-commissioned officers in Her Majesty's army resident within ten miles of its place of sitting as the Court considers to be necessary to make up the number of jurors required for the trial of persons charged with offences before the High Court as aforesaid.

(2) All officers so summoned shall be liable to

be excused on the ground of urgent military duty, or for any other special military reason.

318. Any person summoned under section 316 or section 317, without lawful excuse, fails to attend as required by the summons, or who, attended, departs without having obtained the permission of the Judge, or fails to attend after adjournment of the Court after being ordered to do so, shall be deemed guilty of a contempt and be liable, by order of the Judge, to such fine as he thinks fit, and, in default of payment of such fine, to imprisonment for a term not exceeding six months or to civil jail until the fine is paid.

Provided that the Court may in its discretion remit any fine or imprisonment so imposed.

*K—List of Jurors and Assessors for Court Session, and summoning Jurors and Assessors for that Court.*

319. All male persons between the ages of twenty-one and sixty shall, except as otherwise provided, be liable to serve as jurors or assessors at any trial within the district in which they reside,

or, if the Local Government, on consideration of local circumstances, has fixed any smaller area in this behalf, within the area so fixed.

320. The following persons are exempt from liability to serve as jurors or assessors, namely ;

Exemptions

(a) officers in civil employ superior in rank to a District Magistrate ;

(b) salaried Judges ;

(c) Commissioners and Collectors of Revenue or Customs ;

- (d) police-officers and persons engaged in the Preventive Service in the Customs Department ;
- (e) persons engaged in the collection of the revenue whom the Collector thinks fit to exempt on the ground of official duty ;
- (f) persons actually officiating as priests or ministers of their respective religions ;
- (g) persons in Her Majesty's Army, except when, by any law in force for the time being, they are specially made liable to serve as jurors or assessors ;
- (h) surgeons and others who openly and constantly practise the medical profession ;
- (i) legal practitioners (as defined by the Legal Practitioners Act, 1879) in actual practice ;
- (j) persons employed in the Post-office and Telegraph Department ;
- (k) persons exempted from personal appearance in Court under the provisions of the Code of Civil Procedure, sections 640 and 641 ;
- (l) other persons exempted by the Local Government from liability to serve as jurors or assessors.

321. (1) The Sessions Judge and the Collector of jurors and of the district, or such other officer as the Local Government appoints in this behalf, shall prepare and make out, in alphabetical order a list of person liable to serve as jurors or assessors and qualified in the judgment of

the Sessions Judge and Collector or other aforesaid to serve as such, and not likely to successfully object to under section 278, chap (h), both inclusive.

(2) The list shall contain the name, place and quality or business of every such person if the person is an European or an American; the list shall mention the race to which he belongs.

322. Copies of such list shall be stock up in the office of the Collector or other officer as aforesaid, and in the Court-houses of the District Magistrate and District Court, and extracts therefrom in conspicuous place in the town or towns in or near the persons named in the extract reside.

323. To every such copy or extract shall be subjoined a notice stating objections to the list will be heard and determined by the Sessions Judge or Collector or other officer as aforesaid, at the Sessions Court-house, and at a time to be mentioned in the notice.

324. (1) For the hearing of such objections the Sessions Judge shall sit with the Collector or other officer as aforesaid, and shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person unfit in their judgment to serve as a juror or as an assessor, or who may establish his right to an exemption from service given by section 320, and insert the name of any person omitted from whom they deem qualified for such service.

(2) In the event of a difference of opinion between the Sessions Judge and the Collector or other officer as aforesaid, the name of the proposed juror or assessor shall be omitted from the list.

(3) A copy of the revised list shall be signed by the Sessions Judge and Collector or other officer as aforesaid, and sent to the Court of Session.

(4) Any order of the Sessions Judge and Collector or other officer as aforesaid in preparing and revising the list shall be final.

(5) Any exemption not claimed under this section shall be deemed to be waived until the list is next revised.

(6) The list so prepared and revised shall be again revised once in every year.

(7) The list so revised shall be deemed a new list and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

325. In the case of any district for which the Local Government has declared that the trial of certain offences shall, if the Judge so direct, be by special jury, the Sessions Judge and the Collector of such district or other officer as aforesaid shall prepare, in addition to the revised list hereinbefore prescribed, a special list containing the names of such jurors as are borne on the revised list and are, in the opinion of such Sessions Judge and Collector, or other officer as aforesaid, by reason of their possessing superior qualifications in respect of property, character or education, fit persons to serve as special jurors: Provided always that the inclusion of the name of

any person in such special list shall not involve removal of his name from the revised list, nor relieve him of his liability to serve as an ordinary juror in cases not tried by special jury.

326. (1) The Sessions Judge shall ordinarily send a letter to the District Magistrate requesting him to summon as many persons named in the revised list or the said special list as seem to the Sessions Judge to be needed for trials by jury at trials with the aid of assessors at the said Sessions, the number to be summoned not being less than double the number required for any such trial.

(2) The names of the persons to be summoned shall be drawn by lot in open Court, excluding those who have served within six months, unless the number cannot be made up without them; and the names so drawn shall be specified in the said letter.

327. The Court of Session may direct jurors or assessors to be summoned at other periods than the period specified in section 326, when the number of trial before the Court renders the attendance of one set of jurors or assessors for a whole session oppressive or whenever for other reasons, such direction is found to be necessary.

328. Every summons to a juror or assessor shall be in writing, and shall require his attendance as a juror or assessor, in the case may be, at a time and place to be therein specified.

329. When any person summoned to serve as a juror or assessor is in the service of Government or of a Railway Company, the Court to which he is so summoned may excuse his attendance if it appears on the representation of the head of the office in which he is employed that he cannot serve as a juror or assessor, as the case may be, without inconvenience to the public.

330. (1) The Court of Session may, for reasonable cause, excuse any juror or assessor from attendance at any particular session.

(2) The Court of Session may, if it shall think fit, at the conclusion of any trial by special jury, direct that the jurors who have served on such jury shall not be summoned to serve again as jurors for a period of twelve months.

331. (1) At each session the said Court shall cause to be made a list of the names of those who have attended as jurors and assessors at such session.

(2) Such list shall be kept with the list of the jurors and assessors as revised under section 324.

(3) A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this section.

332. (1) Any person summoned to attend as a juror or as an assessor who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without



having obtained the permission of the Court, or failing to attend after an adjournment of the Court, after being ordered to attend, shall be liable by order of the Court of Session to a fine not exceeding one hundred rupees.

(2) Such fine shall be levied by the District Magistrate by attachment and sale of any movable property belonging to such juror or assessor within the local limits of the jurisdiction of the Court making the order.

(3) For good cause shewn, the Court may remit or reduce any fine so imposed.

(4) In default of recovery of the fine by attachment and sale, such juror or assessor may, by order of the Court of Session, be imprisoned in the jail for the term of fifteen days, unless such fine be paid before the end of the said term.

#### *L.—Special Provisions for High Courts.*

333. At any stage of any trial before a High Court under this Code, before the return of the verdict, the Advocate-General may, if he thinks fit, inform the Court on behalf of Her Majesty that he will not further prosecute the defendant upon the charge; and thereupon all proceedings upon such charge against the defendant shall be stayed and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal unless the presiding Judge otherwise directs.

334. For the exercise of its original criminal jurisdiction, every High Court shall hold sittings on such days and at such convenient intervals.

Power of Advocate-General to stay prosecution.

Time of holding sittings.

the Chief Justice of such Court from time to time points.

335. (1) The High Court shall hold its sittings at the place at which it now holds them, or at such other place (if any) as the Governor-General in Council in the case of the High Court at Fort William, or the Local Government in the case of the other High Courts, may direct.

(2) But it may, from time to time, in the case of a High Court at Fort William with the consent of the Governor-General in Council, and in all other cases with the consent of the Local Government, hold sittings at such other places within the local limits of its appellate jurisdiction as the High Court points.

(3) Such officer as the Chief Justice directs shall give notice beforehand in the local official Gazette of all sittings intended to be held for the exercise of the original criminal jurisdiction of the High Court.

336. The High Court may direct that all European British subjects and persons liable to be tried by it under section 214, who have been committed for trial by it within certain specified districts or during certain specified periods of the year, shall be tried at the ordinary place of sitting of the Court, or direct that they shall be tried at a particular place named.

## CHAPTER XXIV.

## GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS

337. (1) In the case of any offence exclusively by the Court of Session or High Court, the District Magistrate, a District Magistrate, any Magistrate of the first class into the offence, or, with the sanction of the District Magistrate, any other Magistrate, may, with a view of obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, the offence under inquiry, tender pardon to such person on condition of his making full and true disclosure of the whole of the circumstances within his knowledge relative to such offence and to every other person concerned, whether principal or abettor, in the commission thereof.

(2) Every person accepting a tender under this section shall be examined as a witness in the case.

(3) Such person, if not on bail, shall be detained in custody until the termination of the trial by the Court of Session or High Court, as the case may be.

(4) Every Magistrate, other than a District Magistrate, who tenders a pardon under this section, shall be examined as a witness in the case.

He may himself, although the offence is committed by such Magistrate, appear to have committed the offence.

338. At any time after commitment, but before judgment is passed, the Court may, with the view of obtaining evidence, direct the tender of pardon to any person.

the trial the evidence of any person supposed to have been directly or indirectly concerned in, or to have committed, any such offence, tender, or order the committing Magistrate or the District Magistrate to grant, a pardon on the same condition to such person.

339. (1) Where a pardon has been tendered, under section 337 or section 338, and any person who has accepted such tender has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made, he may be tried for the offence in respect of which the pardon was so tendered, or for any other offence which he appears to have been guilty in connection with the same matter.

(2) The statement made by a person who has accepted a tender of pardon may be given in evidence against him when the pardon has been forfeited under this section.

(3) No prosecution for the offence of giving false evidence in respect of such statement shall be entertained without the sanction of the High Court.

340. Every person accused before any Criminal Court may of right be defended by a pleader.

341. If the accused, though not insane, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial, and, in the case of a Court other than a High Court, if such inquiry results in a commitment, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court with a report of the

circumstances of the case, and the High Court shall pass thereon such order as it thinks fit.

342. (1) For the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, the Court may, any stage of any inquiry or trial, without previous warning the accused, put such questions to him as the Court considers necessary, and shall, for the purpose aforesaid, question him generally on the case after the witnesses for the prosecution have been examined and before he is called on for his defence.

(2) The accused shall not render himself liable to punishment by refusing to answer such questions or by giving false answers to them; but the Court and the jury (if any) may draw such inference from such refusal or answers as it thinks just.

(3) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed.

(4) No oath shall be administered to the accused.

343. Except as provided in sections 337 and 338, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

344. (1) If, from the absence of a witness, or any other reasonable cause, it becomes necessary or advisable to postpone the commencement of, or adjourn, any inquiry or

Power to postpone or adjourn proceedings

, the Court may, if it thinks fit, by order in writing, stating the reasons therefor, from time to time, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody :

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding seven days at a time.

(2) Every order made under this section by a court other than a High Court shall be in writing signed by the presiding Judge or Magistrate.

*Explanation.*—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

345. (1) The offences punishable under the second and third sections of the Indian Penal Code described in the first two columns of the table next following may be compounded by persons mentioned in the third column of that table :—

| Offence                                                                                    | Sections of Indian Penal Code applicable | Persons by whom offence may be compounded.                      |
|--------------------------------------------------------------------------------------------|------------------------------------------|-----------------------------------------------------------------|
| Uttering words, &c., with deliberate intent to wound the religious feelings of any person. | 298                                      | The person whose religious feelings are intended to be wounded. |

| Offence.                                                                            | Sections of Indian Penal Code applicable. | Persons by whom offence may be compounded.                              |
|-------------------------------------------------------------------------------------|-------------------------------------------|-------------------------------------------------------------------------|
| Causing hurt ...                                                                    | 323, 334                                  | The person to whom the hurt is caused                                   |
| Wrongfully restraining or confining any person                                      | 341, 342                                  | The person restrained or confined                                       |
| Assault or use of criminal force                                                    | 352, 355, 358                             | The person assaulted or to whom criminal force is used                  |
| Unlawful compulsory labour.                                                         | 374                                       | The person compelled to labour                                          |
| Mischief, when the only loss or damage caused is loss or damage to a private person | 426, 427                                  | The person to whom the loss or damage is caused                         |
| Criminal trespass ...                                                               | 447                                       | The person in possession of the property to which trespass is committed |
| House-trespass ...                                                                  | 448                                       |                                                                         |
| Criminal breach of contract of service.                                             | 490, 491, 492                             | The person with whom the contract has been made                         |

| Offence                                                                                                | Section of Indian Penal Code applicable | Persons by whom offence may be compounded. |
|--------------------------------------------------------------------------------------------------------|-----------------------------------------|--------------------------------------------|
| dultery                                                                                                | 497                                     | The husband of the woman                   |
| enticing or taking away or detaining with a criminal intent a married woman                            | 498                                     |                                            |
| Defamation                                                                                             | 500                                     | The person defamed.                        |
| Printing or engraving matter knowing it to be defamatory.                                              | 501                                     |                                            |
| Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter. | 502                                     | The person defamed.                        |
| Insult intended to provoke a breach of the peace                                                       | 504                                     | The person insulted                        |
| Criminal intimidation, except when the offence is punishable with imprisonment for seven years.        | 506                                     | The person intimidated                     |

(2) The offences of causing hurt and grievous hurt, punishable under section 324, section 325, section 335, section 337 or section 338 of the Indian



Penal Code, may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the person to whom hurt has been caused.

(3) When any offence is compoundable under this section, the abetment of such offence or attempt to commit such offence (when such attempt is itself an offence) may be compounded in like manner.

(4) When the person who would otherwise be competent to compound an offence under this section is a minor, an idiot, or a lunatic, any person competent to contract on his behalf may compound the offence.

(5) When the accused has been committed for trial, or when he has been convicted, and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court to which the case is committed, or, as the case may be, before which the appeal is to be heard.

(6) The composition of an offence under this section shall have the effect of an acquittal of the accused.

(7) No offence shall be compounded except as provided by this section.

346. (1) If, in the course of an enquiry or trial before a Magistrate in any district outside the presidency towns, the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district, he shall stay proceedings and submit the case with a brief report explaining its nature, to any Magistrate to whom he is subordinate, or to such

Procedure of Provincial Magistrate in cases which he cannot dispose of.

er Magistrate, having jurisdiction, as the District Magistrate directs.

(2) The Magistrate to whom the case is submitted may, if so empowered, either try the case himself, or refer it to any Magistrate subordinate to him having jurisdiction, or commit the accused for trial.

347. (1) If in any inquiry before a Magistrate, or in any trial before a Magistrate before signing judgment, it appears to him at any stage of the proceedings that the case is one which ought to be tried by the Court of Session or High Court, and if he is empowered to commit for trial, he shall stop further proceedings and commit the accused under the provisions hereinbefore contained.

(2) If such Magistrate is not empowered to commit for trial, he shall proceed under section 346.

348. Whoever, having been convicted of an offence punishable under Chapter XII or Chapter XVII. of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall be committed to the Court of Session or High Court, as the case may be, unless the Magistrate before whom the proceedings are pending is of opinion that he can himself pass an adequate sentence if the accused is convicted :

Provided that, if the District Magistrate has been invested with powers under section 30, the case may

be transferred to him instead of being committed to the Court of Session.

349. (1) Whenever a Magistrate of the second or third class, having jurisdiction, is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, which such Magistrate is empowered to inflict, or he ought to be required to execute a bond under section 106, he may record the opinion and send his proceedings, and forward the accused, to the District Magistrate or Sub-divisional Magistrate to whom he is subordinate.

(2) The Magistrate to whom the proceedings are submitted may, if he thinks fit, examine the parties and recall and examine any witness who has already given evidence in the case, and may call for and take any further evidence, and shall pass such judgment, sentence or order in the case as he thinks fit and as is according to law :

Provided that he shall not inflict a punishment more severe than he is empowered to inflict under sections 32 and 33.

350. (1) Whenever any Magistrate, after having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the first Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by him.

Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.

edecessor and partly recorded by himself ; or he  
 y resummon the witness and recommence the  
 quiry or trial :

Provided as follows :—

(a) in any trial the accused may, when the  
 second Magistrate commences his pro-  
 ceedings, demand that the witnesses or  
 any of them be resummoned and reheard,

(b) the High Court or, in cases tried by  
 Magistrates subordinate to the District  
 .. .. .

aside any conviction passed on evidence  
 not wholly recorded by the Magistrate  
 before whom the conviction was had, if  
 such Court or District Magistrate is  
 of opinion that the accused has been  
 materially prejudiced thereby, and may  
 order a new inquiry or trial.

(2) Nothing in this section applies to cases in  
 which proceedings have been stayed under section 346.

351. (1) Any person attending a Criminal  
 Court, although not under arrest  
 or upon a summons, may be  
 detained by such Court for the purpose of inquiry  
 into or trial of any offence of which such Court can  
 take cognizance, and which, from the evidence, may

reheard.

## 176 MODE OF TAKING AND RECORDING EVIDENCE

352. The place in which any Criminal Courts to be open, is held for the purpose of inquiring into or trying any offence shall be deemed an open Court, to which the public generally may have access, so far as the same conveniently contain them :

Provided that the presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case, that the public generally, or any particular person shall have access to, or be or remain in, the room or building used by the Court.

### CHAPTER XXV.

#### OF THE MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS.

353. Except as otherwise expressly provided all evidence taken under Chapters XVIII., XX., XXI., XXII. and XXIII. shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in presence of his pleader.

354. In inquiries and trials (other than summary trials) under this Code by or before a Magistrate (other than a Presidency Magistrate) or Sessions Judge, the evidence of the witnesses shall be recorded in the following manner :—

355. (1) In summons-cases tried before a Magistrate other than a Presidency Magistrate, and in cases of the offences mentioned in sub-section (1) of section 260, clauses (b) & (c), both inclusive, when tried

Record in summons-cases and in trials of certain offences by first and second class Magistrates.

a Magistrate of the first or second class, and in proceedings, under section 514 (if not in the course of trial), the Magistrate shall make a Memorandum of the substance of the evidence of each witness as the examination of the witness proceeds.

(2) Such Memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record.

(3) If the Magistrate is prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his station in open Court, and shall sign the same; and such memorandum shall form part of the record.

356. (1) In all other trials before Courts of Record in other Session and Magistrates (other than Presidency Magistrates), and in all inquiries under Chapters XIII. and XVII the evidence of each witness shall be taken down in writing in the language of the Court, or in his own language, as directed by the Magistrate or Sessions Judge.

(2) When the evidence of such witness is given in English, the Magistrate or Sessions Judge shall take it down in English, and, unless the Court shall otherwise direct, in the language of the witness, and a translation of the evidence in English shall be made by the Court.

## 180 MODE OF TAKING AND RECORDING EVIDENCE

(3) In cases in which the evidence is not taken down in writing by the Magistrate or Sessions Judge, but as the examination of witnesses proceeds, make a memorandum of the substance of what such witness deposes and such memorandum shall be written and signed by the Magistrate or Sessions Judge with his hand, and shall form part of the record.

(4) If the Magistrate or Sessions Judge declines from making a memorandum as above provided he shall record the reason of his inability to make it.

357 (1) The Local Government may by order direct that in any district or part of a district, or in proceedings before any Court of Session, or before any Magistrate or class of Magistrates, the evidence of each witness shall, in the cases referred to in section 356, be taken down by the Sessions Judge or Magistrate with his own hand and in his mother-tongue, unless he is prevented by any sufficient reason from doing so, and he shall record the reason of his inability to do so, and shall cause the evidence to be taken down in view of the fact that he is prevented from his dictation in open Court.

(2) The evidence so taken down shall be signed by the Sessions Judge or Magistrate, and shall form part of the record :

Provided that the Local Government may direct that in any district or part of a district, or in proceedings before any Court of Session, or before any Magistrate or class of Magistrates, the evidence of each witness shall, in the cases referred to in section 356, be taken down by the Sessions Judge or Magistrate with his own hand and in his mother-tongue, unless he is prevented by any sufficient reason from doing so, and he shall record the reason of his inability to do so, and shall cause the evidence to be taken down in view of the fact that he is prevented from his dictation in open Court.

mother-tongue.

58. In cases of the kind mentioned in section 355, the Magistrate may, if he thinks fit, take down the evidence of any witness in the manner provided in section 356, or, if, within the local limits of the jurisdiction of such Magistrate, the Local Government has made the order referred to in section 357, in the manner provided in the same section.

59. (1) Evidence taken under section 356 or section 357 shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative.

(2) The Magistrate or Sessions Judge may, in his discretion, take down, or cause to be taken down, any particular question and answer.

60. (1) As the evidence of each witness taken under section 356 or section 357 is completed, it shall be read over to him in the presence of the accused, if in attendance, or of his pleader, if he appears by pleader, and shall, if necessary, be corrected.

(2) If the witness denies the correctness of any part of the evidence when the same is read over to him, the Magistrate or Sessions Judge may, instead of correcting the evidence, make a memorandum of the objection made to it by the witness, and shall add such remarks as he thinks necessary.

(3) If the evidence is taken down in a language different from that in which it has been given and the witness does not understand the language in which it is taken down, the evidence so taken down



shall be interpreted to him in the language in which it was given, or in a language which he understands.

361. (1) Whenever any evidence is given in a language not understood by the accused, and he is present, it shall be interpreted to him in open Court in a language understood by him.

(2) If he appears by pleader, and the evidence is given in a language other than the language of the Court, and not understood by the pleader, it shall be interpreted to such pleader in that language.

(3) When documents are put in for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

362. (1) In every case in which a President Magistrate imposes a fine exceeding two hundred rupees, or imprisonment for a term exceeding six months, he shall either take down the evidence of the witnesses with his own hand, or cause it to be taken down in writing from his dictation in open Court. All evidence so taken down shall be signed by the Magistrate and shall form part of the record.

(2) Evidence so taken down shall ordinarily be recorded in the form of a narrative, but the Magistrate may, in his discretion, take down, or cause to be taken down, any particular question or answer.

(3) Sentences passed under section 35 on the same occasion shall, for the purposes of this section, be considered as one sentence.

363. When a Sessions Judge or Magistrate has marks respecting recorded the evidence of a witness of witness, he shall also record such marks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.

364. (1) Whenever the accused is examined by any Magistrate, or by any Court other than a High Court established by Royal Charter or the Chief Court of the Punjab, or the Chief Court of Lower Burma, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, in the language in which he is examined, or, if that is not practicable, in the language of the Court or in English; and such record shall be shown or read to him, or, if he does not understand the language in which it is written, shall be interpreted to him in a language which he understands, and he shall be at liberty to explain or add to his answers.

(2) When the whole is made conformable to what declares the truth, the record shall be signed by the accused and the Magistrate or Judge of such court, and such Magistrate or Judge shall certify under his own hand that the examination was taken in his presence and hearing, and that the record contains a full and true account of the statement made by the accused.

(3) In cases in which the examination of the accused is not recorded by the Magistrate or Judge, he is a Presidency Magistrate, he may, if he deems it expedient, proceed, to make a report to the Bench of the Court, and if he is acquainted with the English language, and such memorandum shall be

written and signed by the Magistrate or Judge his own hand, and shall be annexed to the record. If the Magistrate or Judge is unable to make a memorandum as above required, he shall record the reason of such inability.

(4) Nothing in this section shall be deemed to apply to the examination of an accused person under section 263.

365. Every High Court established by the Charter of the Chief Court of Punjab and the Chief Court of Lower Burma may, from time to time, by general rule, prescribe the manner in which evidence is to be taken down in cases coming before the Court, and the Judges of such Court shall take down the evidence or the substance thereof in accordance with the rule (if any) so prescribed.

## CHAPTER XXVI.

### OF THE JUDGMENT.

366. (1) The judgment in every trial in so far as it relates to the Criminal Court of original jurisdiction shall be pronounced, and the substance of such judgment shall be explained—

(a) in open Court either immediately after the trial or at some subsequent time; and

(b) in the language of the Court, or in some other language which the accused or his pleader understands;

Provided that the whole judgment shall be read out by the presiding Judge if he is requested to do either by the prosecution or the defence.

(2) The accused shall, if in custody, be brought up, or, if not in custody, be required by the Court to attend, ~~to have judgment delivered against him~~ is persor  
dispensed  
he is  
delivered in the presence of his pleader.

(3) No judgment delivered by any Criminal Court shall be deemed to be invalid by reason only of the absence of any party or his pleader on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving, on the parties or their pleaders, or any of them, the notice of such day and place.

(4) Nothing in this section shall be construed to limit in any way the extent of the provisions of section 537.

367. (1) Every such judgment shall, except as Language of judgment otherwise expressly provided by this Code, be written by the presiding officer of the Court in the language of the Court, or in English; and shall contain the point or points for determination, the decision thereon, and the reasons for the decision; and shall be dated and signed by the presiding officer in open Court at the time of pronouncing it.

(2) It shall specify the offence (if any) of which, and the section of the Indian Penal Code or other law under which, the accused is convicted, and the punishment to which he is sentenced.

(3) When the conviction is under the Indian Penal Code, and it is doubtful Judgment in alternative under which of two sections, or

under which of two parts of the same section of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative.

(4) If it be a judgment of acquittal, it shall :  
the offence of 'which the accused is acquitted  
direct that he be set at liberty.

(5) If the accused is convicted of an offence punishable with death, and the Court sentences him any punishment other than death, the Court shall its judgment state the reason why sentence of death was not passed :

Provided that, in trials by jury, the Court do not write a judgment, but the Court of Sessions shall record the heads of the charge to the jury.

368. (1) When any person is sentenced to death,  
Sentence of death. the sentence shall direct that :  
be hanged by the neck till  
is dead.

(2) No sentence of transportation shall specify  
Sentence of transportation the place to which the person  
sentenced is to be transported.

369. No Court other than a High Court, when  
Court not to alter judgment. has signed its judgment, shall  
alter or review the same, except  
as provided in sections 395 and 484, or to correct a  
clerical error.

370. Instead of recording a judgment in manner  
Presidency Magistrate's judgment hereinbefore provided, a Presidency Magistrate shall record  
the following particulars :—

- (a) the serial number of the case ;
- (b) the date of the commission of the offence ;

- (c) the name of the complainant (if any) ;
- (d) the name of the accused person and (except in the case of an European British subject) his parentage and residence ;
- (e) the offence complained of or proved ;
- (f) the plea of the accused and his examination (if any) ;
- (g) the final order ;
- (h) the date of such order ; and
- (i) in all cases in which the Magistrate inflicts imprisonment, or fine exceeding two hundred rupees, or both, a brief statement of the reasons for the conviction.

271. (1) On the application of the accused a copy of judgment, copy of the judgment, or, when to be given to he so desires, a translation in ed on applica- his own language, if practicable, or in the language of the rt, shall be given to him without delay. Such y shall, in any case other than a summons case, given free of cost.

(2) In trials by jury in a Court of Session, a copy he heads of the charge to the jury shall, on the lication of the accused, be given to him without ay and free of cost.

(3) When the accused is sentenced to death by ac of person sen- Sessions Judge, such Judge ed to death, shall further inform him of the iod within which, if he wishes to appeal, his eal should be preferred.

under which of two parts of the same section of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative.

(4) If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted and direct that he be set at liberty.

(5) If the accused is convicted of an offence punishable with death, and the Court sentences him to any punishment other than death, the Court shall in its judgment state the reason why sentence of death was not passed :

Provided that, in trials by jury, the Court need not write a judgment, but the Court of Sessions shall record the heads of the charge to the jury.

368. (1) When any person is sentenced to death the sentence shall direct that he be hanged by the neck till he is dead.

(2) No sentence of transportation shall specify the place to which the person sentenced is to be transported.

369. No Court other than a High Court, when its Court not to alter judgment, shall alter or review the same, except as provided in sections 395 and 484, or to correct a clerical error.

370. Instead of recording a judgment in manner hereinbefore provided, a Presidency Magistrate shall record the following particulars :—

(a) the serial number of the case ;

(b) the date of the commission of the offence ;

sors, and, unless the High Court otherwise orders, the presence of the convicted person may be required when the same is made or taken.

3) When the inquiry and the evidence (if any) is not made and taken by the High Court, the result of such inquiry and the evidence shall be certified to such Court.

376. In any case submitted under section 374, whether tried with the aid of assessors or by jury, the High Court —

(a) may confirm the sentence, or pass any other sentence warranted by law, or

(b) may annul the conviction, and convict the accused of any offence of which the Sessions Court might have convicted him, or order a new trial on the same or an amended charge, or

(c) may acquit the accused person :

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

377. In every case so submitted, the confirmation or new sentence to be signed by the Judges of the High Court, shall, when the Court consists of two or more Judges, be made, passed, and signed by at least two of them.

378. When any such case is heard before a Bench of Judges and such Judges are equally divided in opinion, the



372. The original judgment shall be filed  
 Judgment when to the record of proceedings,  
 be translated. where the original is recd  
 in a different language from that of the Court  
 the accused so requires, a translation thereof  
 a language of the Court shall be added to suc  
 cord.

373. In cases tried by the Court of Session  
 Court of Session to Court shall forward a copy  
 send copy of finding its finding and sentence  
 and sentence to Dis- any) to the District Magis-  
 trict Magistrate within the local limits of  
 jurisdiction the trial was held.

## CHAPTER XXVII.

### OF THE SUBMISSION OF SENTENCES FOR CON- FIRMATION.

374. When the Court of Session passes  
 Sentence of death to tence of death, the proceed-  
 be submitted by Court shall be submitted to the  
 of Session. Court, and the sentence  
 not be executed unless it is confirmed by the  
 Court.

375. (1) If when such proceedings are sub-  
 Power to direct fur- ted, the High Court thinks  
 ther inquiry to be a further inquiry should be  
 made or additional into, or additional evidence  
 evidence to be taken. upon, any point bearing  
 the guilt or innocence of the convicted person  
 may make such inquiry or take such evidence  
 or direct it to be made or taken by the Court  
 Session.

(2) Such inquiry shall not be made, nor  
 such evidence be taken, in the presence of jurors

reiving the order of confirmation or other order  
e High Court thereon, cause such order to  
ried into effect by issuing a warrant, or taking  
other steps as may be necessary.

32. If a woman sentenced to death is found  
ponement of ca- to be pregnant, the High Court  
entence on preg- shall order the execution of the  
oman. sentence to be postponed, and  
if it thinks fit, commute the sentence to trans-  
tion for life.

33. Where the accused is sentenced to trans-  
portation or imprisonment in  
cases other than those provided  
for by section 381, the Court  
passing the sentence shall forth-  
forward a warrant to the jail in which he is, or  
be, confined, and, unless the accused is already  
ned in such jail, shall forward him to such jail,  
the warrant.

34. Every warrant for the execution of a sen-  
tence of imprisonment shall be  
directed to the officer in charge  
e jail, or other place in which the prisoner is, or  
be, confined.

35. When the prisoner is to  
be confined in a jail, the warrant  
be lodged with the jailor.

36. Whenever an offender is sentenced to pay  
rant for levy of a fine, the Court passing the  
sentence may, in its discretion,  
a warrant for the levy of the amount by distress  
ale of any movable property belonging to the  
der, although the sentence directs that, in default

case, with their opinions thereon, shall be fore another Judge, and such Judge sit hearing as he thinks fit, shall deliver his and the judgment or order shall follow a nion.

379. In cases submitted by the Court  
*Procedure in cases submitted to High Court for confirmation* sion to the High Court l confirmation of a sente death, the proper officer High Court shall, without after the order of confirmation or other ord been made by the High Court, send a copy order, under the seal of the High Court, and ed with his official signature, to the Court of sion

380. Where proceedings are submitted :  
*Procedure in cases submitted by Magistrate not empowered to act under section 562.* Magistrate of the first cl a Sub-divisional Magistrate provided by section 562, Magistrate may thereupon such sentence or make such order as he might passed or made if the case had originally heard by him, and, if he thinks further inquiry additional evidence on any point to be necessary he may make such inquiry or take such evidence himself or direct such inquiry or evidence to made or taken.

## CHAPTER XXVIII.

### OF EXECUTION.

381. When a sentence of death passed  
*Execution of order passed under section 376.* Court of Session is submitted to the High Court for confirmation, such Court of Session sh:

Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who issued the sentence, or by his successor in office.

When the accused is sentenced to whipping only, the sentence shall be executed at such place and time as the court may direct.

(1) When the accused is sentenced to whipping in addition to imprisonment in a case which is subject to appeal, the whipping shall be inflicted at such place and time as the court may direct.

When the sentence is appealed, the whipping shall be inflicted at such place and time as the court may direct, until the sentence is confirmed by the Appellate Court; but the whipping shall not be inflicted until the appeal is allowed.

The whipping shall be inflicted in the presence of the officer in charge of the jail, unless the Judge or Magistrate orders it to be inflicted in his absence.

No accused person shall be sentenced to whipping in addition to imprisonment when the term of imprisonment to which he is sentenced is less than three months.

(1) In the case of a person of or over sixteen years of age, whipping shall be inflicted with a light rattan not less than half an inch in diameter, in such mode, and on such part of the

of payment of the fine, the offender shall be imprisoned.

387. Such warrant may be executed within local limits of the jurisdiction of such Court, and it shall authorise the distress and sale of any such property within such limits, when endorsed by the District Magistrate or Chief Presidency Magistrate within the limits of whose jurisdiction such property is found.

388. (1) When an offender has been sentenced to fine only, and to imprisonment in default of payment of the fine, and the Court issues a warrant under section 386, it may suspend the execution of the sentence of imprisonment and release the offender on his executing a bond, without sureties, as the Court thinks fit, conditioned for his appearance before such Court on the day appointed for the return to such warrant, such day not being more than fifteen days from the time of executing the bond; and in the event of the bond not having been realized, the Court may direct the sentence of imprisonment to be carried into execution at once.

(2) In any case in which an order for the payment of money has been made, on non-recovery of which imprisonment may be awarded, and the money is not paid forthwith, the Court may require the person ordered to make such payment to enter into a bond as prescribed in sub-section (1), and in default of his so doing, may at once pass sentence of imprisonment as if the money had not been covered.

5. (1) In any case in which, under section 394, a sentence of whipping is, wholly or partially, prevented from being executed, the offender shall be kept in custody till the Court which passed the sentence can revise it; and the said Court may, at its discretion, either remit the sentence, or sentence the offender in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to imprisonment for term not exceeding twelve months, which may be in addition to any other punishment to which he may have been sentenced for the same offence.

(2) Nothing in this section shall be deemed to authorize any Court to inflict imprisonment for a term exceeding that to which the accused is liable by law, or that which the said Court is competent to inflict.

36. (1) When sentence is passed under this Code on an escaped convict, such sentence, if of death, fine or whipping, shall, subject to the provisions hereinbefore contained, take effect immediately, and, if of imprisonment, penal servitude or transportation, shall take effect according to the following rules, that is to say:—

(2) if the new sentence is severer in its kind than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect immediately,

(3) when the new sentence is not severer in its kind than the sentence the convict was undergoing when he escaped, the new sentence shall take effect as if he has suffered imprisonment, penal servitude, or transportation, as the case may be, for a further

person, as the Local Government directs; and, in case of a person under sixteen years of age, it may be inflicted in such mode, and on such part of the person, and with such instrument as the Local Government directs.

Limit of number of stripes

(2) In no case shall punishment exceed thirty

393. No sentence of whipping shall be executed by instalments: and non-executable persons shall be punishable with whipping (fully):—

(a) females;

(b) males sentenced to death, or to transportation or to penal servitude, or to imprisonment for more than five years;

(c) males whom the Court considers to be more than forty-five years of age.

394. (1) The punishment of whipping shall not be inflicted unless a medical officer, if present, certifies, if there is not a medical officer present, unless it appears to the Magistrate or officer present, that the offender is in a fit state of health to undergo such punishment.

(2) If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the Magistrate or officer present, that the offender is not in a fit state of health to undergo the remainder of the sentence, the whipping shall be finally stopped.

to which he is liable upon his former or subsequent conviction.

(2) When an award of imprisonment in default of payment of a fine is made to a person...

onment, and the person undergoing the sentence after its execution to undergo a further substantive sentence, or further substantive sentences, of imprisonment, transportation or penal servitude, effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences.

399. (1) When any person under the age of fifteen years is sentenced by any court of criminal jurisdiction to imprisonment for any offence, the Court may direct that such person, instead of being imprisoned in a criminal jail, shall be confined in any reformatory established by the Local Government as a place for confinement, in which there are means of moral discipline and of training in some branch of useful industry, or which is kept by a person willing to obey such rules as the Local Government prescribes with regard to the discipline and training of persons confined therein.

(2) All persons confined under this section shall be subject to the rules so prescribed.

(3) This section shall not apply to any place in which the Reformatory Schools Act, 1897, is for the time being in force.

400. When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it issued, with an acknowledgment of the execution of the sentence.



period equal to that which, at the time of remained unexpired of his former sentence

*Explanation.*—For the purposes of this

(a) a sentence of transportation or penitentiary servitude shall be deemed severe sentence of imprisonment ;

(b) a sentence of imprisonment with confinement shall be deemed more severe than a sentence of the same degree of imprisonment without solitary confinement ; and

(c) a sentence of rigorous imprisonment shall be deemed severer than a sentence of simple imprisonment with or without solitary confinement.

397. When a person already undergoing a sentence of imprisonment, or already sentenced to imprisonment for another offence, is again sentenced to imprisonment, penitentiary servitude or transportation, such imprisonment, penitentiary servitude or transportation shall commence at the expiration of the imprisonment, penitentiary servitude or transportation to which he has been previously sentenced.

Provided that, if he is undergoing a sentence of imprisonment, and the sentence on such subsequent conviction is one of transportation, the Court may, in its discretion, direct that the latter sentence shall commence immediately, or at the expiration of the imprisonment to which he has been previously sentenced.

398. (1) Nothing in section 396 or section 397 shall be held to excuse any person from any part of the punishment.

Saving as to sections 396 and 397.

ment to which he is liable upon his former or subsequent conviction.

(2) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment, or to a sentence of transportation or of penal servitude for an offence punishable with imprisonment, and the person undergoing the sentence

shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences

399. (1) When any person under the age of sixteen years is sentenced to imprisonment of a term exceeding three months for a criminal offence, the court shall direct that such person, instead of being imprisoned in a criminal jail, shall be confined in any reformatory established by the Local Government as a fit place for confinement, in which there are means of profitable discipline and of training in some branch of useful industry, or which is kept by a person willing to obey such rules as the Local Government prescribes with regard to the discipline and training of persons confined therein.

(2) All persons confined under this section shall be subject to the same rules and regulations as persons confined in a criminal jail.

(3) All persons confined under this section shall be subject to the same rules and regulations as persons confined in a criminal jail.

being in force.

400. When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it issued, with an acknowledgment of the execution of the sentence.

endorsement under his hand certifying the manner in which the sentence has been executed.

## CHAPTER XXIX.

### OF SUSPENSIONS, REMISSIONS AND COMMUTATIONS OF SENTENCES.

401. (1) When any person has been sentenced

Power to suspend or remit sentences punishment for an offence, the Governor-General in Council the Local Government may at any time without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment which he has been sentenced.

(2) Whenever an application is made to the Governor-General in Council or the Local Government for the suspension or remission of a sentence, the Governor-General in Council or the Local Government, as the case may be, may require the presiding Judge of the Court, before or by which the conviction was had or confirmed, to state his opinion as to whether the application should be granted or refused together with his reasons for such opinion.

as the case may be, not fulfilled, the Governor-General in Council or the Local Government may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted, may, if at large, be arrested by any police-officer without warrant and remanded to undergo the unexpired portion of the sentence.

(4) The condition on which a sentence is suspended or remitted under this section, may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of the person.

(5) Nothing herein contained shall be deemed to interfere with the right of Her Majesty to grant pardons, reprieves, respites or remissions, of punishment.

(6) The Governor-General in Council and the Local Government may, by general rules or special orders,

presented and dealt with.

402. The Governor-General in Council or the Local Government may, without the consent of the person sentenced, commute any one of the following sentences or any other mentioned after it :—

death, transportation, penal servitude, rigorous imprisonment for a term not exceeding that to which he might have been sentenced, simple imprisonment for a like term, fine.

## CHAPTER XXX.

### OF PREVIOUS ACQUITTALS OR CONVICTIONS.

403. (1) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for any offence arising from the same under the same or any other law.

section 236, or for which he might have been victed under section 237.

(2) A person acquitted or convicted of any fence may be afterwards tried for any distinct offence for which a separate charge might have been brought against him on the former trial under section 236 sub-section (1).

(3) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

(4) A person acquitted or convicted of an offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried, was not competent to try the offence with which he is subsequently charged.

(5) Nothing in this section shall affect the provision of sections 26 of the General Clauses Act, 1897, or of section 188 of this Code.

*Explanation.*—The dismissal of a complaint, the stopping of proceedings under section 249, the discharge of the accused or any entry made upon a charge under section 273, is not an acquittal for the purposes of this section.

#### *Illustrations.*

(a) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal re-

nains in force, be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust

for, robbery

(c) A is tried for causing grievous hurt and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.

(d) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried on the same facts for the murder of B

paragraph 3 of the section

(f) A is charged by a Magistrate of the second class with and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same facts

(g) A, B and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same facts

## PART VII.

### OF APPEAL, REFERENCE AND REVISION.

#### CHAPTER XXXI.—OF APPEALS.

404. No appeal shall lie from any judgment or order of a criminal Court except as provided for by this Code or by any other law for the time being in force.

Unless otherwise provided, no appeal to lie.

405. Any person whose application under section 89 for the delivery of proper or the proceeds of the sale thereof has been rejected by any Court may appeal to the Court to which appeals ordinarily lie from the sentences of the former Court.

Appeal from order rejecting application for restoration of attached property.

406. Any person ordered by a Magistrate other than the District Magistrate or Presidency Magistrate, to give security for good behaviour and section 118 may appeal to the District Magistrate.

Appeal from order requiring security for good behaviour.

407. (1) Any person convicted on a trial held by any Magistrate of the second or third class, or any person sentenced under section 349 by a Sub-divisional Magistrate of the second class, may appeal to the District Magistrate.

Appeal from sentence of Magistrate of the second or third class.

(2) The District Magistrate may direct that any appeal under this section, or any class of such appeals, shall be heard by any Magistrate of the first class subordinate to him and empowered by the Local Government to hear such appeals, and thereupon such appeal or class of appeals may be presented to such subordinate Magistrate, or, if already presented to the District Magistrate, may be transferred to such subordinate Magistrate. The District Magistrate may withdraw from such Magistrate any appeal or class of appeals so presented or transferred.

Transfer of appeals to first-class Magistrate.

408. Any person convicted on a trial held by an Assistant Sessions Judge, a District Magistrate or other Magistrate of the first class, or any person sentenced under section 349 by a Sub-divisional Magistrate of the second class, may appeal to the District Magistrate.

Appeal from sentence of Assistant Sessions Judge or Magistrate of the first class.

49 by a Magistrate of the first class, may appeal to the Court of Session :

Provided as follows :—

(a) Any European British subject so convicted may, at his option, appeal either to the High Court or the Court of Session ;

(b) when in any case an Assistant Sessions Judge or a Magistrate specially empowered under section 30 passes any sentence of imprisonment for a term exceeding four years, or any sentence of transportation, the appeal shall lie to the High Court ;

(c) when any person is convicted by a Magistrate of an offence under section 124 A of the Indian Penal Code, the appeal shall lie to the High Court.

409. An appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge.

410. Any person convicted on a trial held by a Sessions Judge or an Additional Sessions Judge, may appeal to the High Court.

411. Any person convicted on a trial held by a Presidency Magistrate may appeal to the High Court, if the Magistrate has sentenced him to imprisonment for a term exceeding six months or to fine exceeding two hundred rupees.



412. Notwithstanding anything hereinbefore con-

No appeal in certain cases when accused pleads guilty. tained, where an accused person has pleaded guilty and has been convicted by a Court of Session or any Presidency Magistrate or Magistrate of the first class on such plea, there shall be no appeal except as to the extent or legality of the sentence.

413. Notwithstanding anything hereinbefore con-

No appeal in petty cases, in which a Court of Session or the District Magistrate or other Magistrate of the first class passes a sentence of imprisonment not exceeding one month only, or of fine not exceeding fifty rupees only, or of whipping only. tained, there shall be no appeal by a convicted person in case in which a Court of Session or the District Magistrate or other Magistrate of the first class passes a sentence of imprisonment not exceeding one month only, or of fine not exceeding fifty rupees only, or of whipping only.

of it  
in d

sentence of imprisonment has also been passed.

414. Notwithstanding anything hereinbefore con-

No appeal from cer- tained, there shall be no appeal from a sentence of imprisonment not exceeding three months only, or of fine not exceeding two hundred rupees only, or of whipping only. tained, there shall be no appeal from a sentence of imprisonment not exceeding three months only, or of fine not exceeding two hundred rupees only, or of whipping only.

415. An appeal may be brought against a

Proviso to sections 413 and 414. sentence referred to in sections 413 or section 414 by which a sentence of imprisonment not exceeding three months only, or of fine not exceeding two hundred rupees only, or of whipping only, is passed. are wis.

on the ground that the person concerned is unable to find security to keep the peace.

*planation.*—A sentence of imprisonment in of payment of fine is not a sentence by which more punishments are combined within the of this section.

6. Nothing in sections 413 and 414 applies to of sentences appeals from sentences passed open British under Chapter XXXIII. on European British subjects.

7. The Local Government may direct the Public Prosecutor to present an appeal on behalf of the appellant in case of an original or appellate order of appeal passed by any Court other than a High

8. An appeal may lie on a matter of fact as well as a matter of law, except where the trial was by jury, in case the appeal shall lie on a matter of law only.

“ “ “ severity of a sentence section, be deemed to

19. Every appeal shall be made in the form of a petition in writing presented by the appellant or his pleader, and every such petition shall (unless the Court to which it is presented otherwise directs) be accompanied by a copy of the judgment or order appealed from, and in cases tried by a jury, a copy of the indictment of the charge recorded under section 367.

20. If the appellant is in jail, he may present his petition of appeal and the copies accompanying the same before when appointed to jail the officer in charge of the jail, who shall there-



is sufficient ground for interfering, dismiss the appeal, or may,—

(a) in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, or that the accused be retried or committed for trial, as the case may be, or find him guilty, and pass sentence on him according to law ;

(b) in an appeal from a conviction, (1) reverse the finding and sentence, and acquit or discharge the accused, or order him to be retried by a Court of competent jurisdiction subordinate to such Appellate Court or committed for trial, or (2) alter the finding, maintaining the sentence, or, with or without altering the finding, reduce the sentence, or (3), with or without such reduction and with or without altering the finding, alter the nature of the sentence but, subject to the provisions of section 106, sub-section (3), not so as to enhance the same ;

(c) in an appeal from any other order, alter or reverse such order ;

(d) make any amendment or any consequential or incidental order that may be just or proper.

(2) Nothing herein contained shall authorize a Court to alter or reverse the verdict of a jury, unless it is of opinion that such verdict is erroneous owing to a misdirection by the Judge, or to a misunderstanding on the part of the jury of the law as laid down by him.

424. The rules contained in Chapter XXI to the judgment of a Criminal Court of original jurisdiction shall apply, so far as practicable, to the judgment of any Appellate Court other than a High Court :

Provided that, unless the Appellate Court otherwise directs, the accused shall not be brought or required to attend, to hear judgment delivered.

425 (1) Whenever a case is decided or ordered by the High Court under chapter, it shall certify its judgment or order to the Court in which the finding, sentence or order appealed against was recorded or passed. If the finding, sentence or order was recorded or passed by a Magistrate or other District Magistrate, the certificate shall be sent through the District Magistrate.

(2) The Court to which the High Court certifies its judgment or order shall thereupon make orders as are conformable to the judgment or order of the High Court; and, if necessary, the record shall be amended in accordance therewith.

426 (1) Pending any appeal by a convicted person, the Appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and, also, if he is in confinement, that he be released on bail or on his own bond.

(2) The power conferred by this section on the Appellate Court may be exercised also by the High Court.

t in the case of any appeal by a convicted person a Court subordinate thereto.

3) When the appellant is ultimately sentenced to imprisonment, penal servitude or transportation, time during which he is so released shall be excluded in computing the term for which he is so sentenced.

127. (1) When an appeal is presented under section 126, the Appellate Court may, at any time, direct the appellant to furnish such further evidence as the Court may require, and may direct that such evidence be taken by a Magistrate, or, when the Appellate Court is a High Court, by a Court of Session or a Magistrate.

(2) When the additional evidence is taken by a Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and the Appellate Court shall thereupon proceed to dispose of the appeal.

128. (1) In dealing with any appeal under this section, the Appellate Court, if it thinks additional evidence to be necessary, shall record its reasons, and may either take such evidence itself, or direct it to be taken by a Magistrate, or, when the Appellate Court is a High Court, by a Court of Session or a Magistrate.

(2) When the additional evidence is taken by a Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and the Appellate Court shall thereupon proceed to dispose of the appeal.

(3) Unless the Appellate Court otherwise directs, the appellant shall be liable to pay the costs of the appeal.

(4) The taking of evidence under this section shall be subject to the provisions of Chapter XXV. if it were an inquiry.



be sent to the Magistrate by whom the reference is made, who shall dispose of the case conformably to the said order.

(2) The High Court may direct by whom the costs of such reference shall be paid.

434. (1) When any person has in a trial before a Judge of a High Court consisting of more Judges than one and acting in the exercise of its original criminal jurisdiction, been convicted of an offence, the Judge, if he thinks fit, may reserve and refer for the decision of a Court consisting of two or more Judges of such Court any question of law which has arisen in the course of the trial of such person, and the determination of which would affect the event of the trial.

(2) If the Judge reserves any such question, the person convicted shall, pending the decision thereon, be remanded to jail, or, if the Judge thinks fit, be admitted to bail; and the High Court shall have power to review the case, or such part of it as may be necessary, and fix

435. (1) The

Power to call for records of inferior Courts

powered by the L may call for and examine the record of any proceeding, before any inferior Criminal Court situate within the local limits of its or his jurisdiction for the





- (b) that, if such Judge or Magistrate thinks that the evidence shows that some other offence has been committed by the accused, such Judge or Magistrate may direct the inferior Court to inquire into such offence.

437. On examining any record under section 435 or otherwise, the High Court or the Sessions Judge may direct the District Magistrate by himself or by any of the Magistrates subordinate to him to make, and the District Magistrate may himself make, or direct any subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section 203 or sub-section (3) of section 204, or into the case of any accused person who has been discharged.

438. (1) The Sessions Judge or District Magistrate may, if he thinks fit, on examining under section 435 or otherwise the record of any proceeding, report for the orders of the High Court the result of such examination, and, when such report contains a recommendation that a sentence be reversed or altered, may order that the execution of such sentence be suspended, and, if the accused is in confinement, that he be released on bail or on his own bond.

(2) An Additional Sessions Judge shall

439. (1) In the case of any proceeding the record of which has been called for by itself or which has been reported for orders, or which otherwise comes to

its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 195, 423, 426, 427 and 428 or on a Court by section 336, and may enhance the sentence; and, when the Judges composing the Court of Revision are equally divided in opinion the case shall be disposed of in manner provided by section 429.

(2) No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard either personally or by pleader in his own defence.

(3) Where the sentence dealt with under this section has been passed by a Magistrate acting otherwise than under section 34, the Court shall not inflict a greater punishment for the offence which in the opinion of such Court, the accused has committed, than might have been inflicted for such offence by a Presidency Magistrate or a Magistrate of the first class.

(4) Nothing in this section applies to an order made under section 273, or shall be deemed to authorize a High Court to convert a finding of acquittal into one of conviction.

(5) Where, under this Code, an appeal lies, and no appeal is brought, no proceedings by way of revision shall be entertained at the instance of the party who could have appealed.

440. No party has any right to be heard either personally or by pleader before any Court when exercising its powers of revision:

Optional with Court to hear parties. Provided that the Court may, if it thinks fit when exercising such powers, hear any party who

personally or by pleader, and that nothing in this section shall be deemed to affect section 439, sub-section (2)

441. When the record of any proceeding of any Presidency Magistrate is called for by the High Court under section 435, the Magistrate may submit with the record a statement setting forth the grounds of his decision or order and any facts which he thinks material to the issue; and the Court shall consider such statement before overruling or setting aside the said decision or order.

442. When a case is revised under this chapter by the High Court, it shall in the manner hereinbefore provided by section 425, certify its decision or order to the Court by which the finding, sentence or order revised was recorded or passed, and the Court or Magistrate to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified; and, if necessary, the record shall be amended in accordance therewith.

## PART VIII—SPECIAL PROCEEDINGS

### CHAPTER XXXIII.

#### CRIMINAL PROCEEDINGS AGAINST EUROPEANS AND AMERICANS.

443. No Magistrate unless he is a Justice of the Peace, and (except in the case of a District Magistrate or Presidency Magistrate) unless he is a Magistrate of the first class, may inquire into and try charges against European British subjects.

class and an European British subject, shall inquire into or try any charge against an European British subject.

444. No Judge presiding in a Court of Sessions, except the Sessions Judge, shall exercise jurisdiction over an European British subject unless he himself is an European British subject; and, is an Assistant Sessions Judge unless he has held the office of Assistant Sessions Judge for at least three years and has been specially empowered in this behalf by the Local Government.

445. Nothing in section 443 or section 444 shall prevent any Magistrate from taking cognizance of an offence committed by any European British subject in any case in which he could take cognizance of a like offence if committed by another person:

Provided that, if he issues any process for the purpose of compelling the appearance of an European British subject accused of an offence, no process shall be made returnable before a Magistrate having jurisdiction to inquire into or try the case.

446. Notwithstanding anything contained in section 32 or section 34, no Magistrate other than a District Magistrate or Presidency Magistrate shall pass any sentence on an European British subject other than imprisonment for a term which may extend to three months, or fine which

may extend to one thousand rupees, or both, and a District Magistrate shall not pass any such sentence other than imprisonment for a term which may extend to six months, or fine which may extend to two thousand rupees, or both

447. (1) When an European British subject is accused of an offence before a Magistrate and such offence cannot, in the opinion of such Magistrate, be adequately punished by him, and is not punishable with death or with transportation for life, such Magistrate shall, if he thinks that the accused ought to be committed, commit him to the Court of Session, or, in the case of a Presidency Magistrate, to the High Court.

(2) When the offence which appears to have been committed is punishable with death or with transportation for life, the commitment shall be to the High Court.

448. Where any person committed to the High Court under section 447 is charged with several offences of which one is punishable with death or transportation for life

and the others with imprisonment, and the person is not tried for the offence of which he is charged with death or transportation, the High Court may nevertheless try him for the other offences.

449. (1) Notwithstanding anything contained in section 31, no Court of Session shall pass on any European British subject any sentence other than a sentence of imprisonment for a term which may extend to one year or fine, or both.

(2) If at any time after the commitment and

Procedure when Sessions Judge finds his powers inadequate

before signing judgment, the presiding Judge thinks that the offence which appears to

proved, cannot be adequately punished by such sentence, he shall record his opinion to that effect and transfer the case to the High Court. Sessions Judge may either himself bind over, or direct commitment and

4

Jury or assessors before High Court or Court of Session

before a High Court or Court of Session, if, before the first jury is called and accepted, or the

first assessor is appointed, as the case may be, and such subject requires to be tried by a mixed jury the trial shall be by a jury of which not less than half the number shall be Europeans or Americans or both Europeans and Americans.

(2) When any such trial before a Court of Session would in the ordinary course be with the aid of assessors, the European British subject accused, or where there are several European British subjects accused, all of them jointly, may, instead of claiming to be tried by a mixed jury under sub-section (1) require that not less than half the number of the assessors shall be Europeans or Americans or both Europeans and Americans.

451. (1) In trials of European British subjects

Right of European British subject to claim jury before District Magistrate

before a District Magistrate for any offence, any such subject may, in a summons-case before he is heard in his defence or before

section 244, or in a warrant-case before he enters on his defence under section 256, claim that the trial

be by a jury composed in manner prescribed in section 450.

1) If a claim is made under sub-section (1) in summons-case at the time when the Magistrate orders under section 244 to hear the accused, or warrant-case at the time when the Magistrate commits the accused under section 256 to enter the defence, the Magistrate shall forthwith issue the necessary orders for the trial by a jury as aforesaid.

2) If such a claim is made at an earlier stage of proceedings, the Magistrate shall issue such orders whenever it appears to him from the evidence that there will be a sufficient case to go to a jury.

3) In every such case the Magistrate shall, notwithstanding anything contained in section 242, issue any orders as aforesaid, frame a charge.

4) The provisions of sections 211, 216, 217, 219 and 220 shall, so far as may be, apply for the purpose of securing the attendance of the complainant, accused and the witnesses at every trial to be held under this section.

5) The provisions of this Code relating to the procedure in a trial by jury before a Court of Sessions shall, as nearly as may be, apply to every trial under this section as if the District Magistrate were a Sessions Judge and the accused had been committed to a Court for trial.

7) All Courts may construe any of the pro-





as it would have been had the European British subject been tried separately :

Provided that, if the European British subject requires under section 450 to be tried by a mixed jury, or by a mixed set of assessors, and the person not being an European British subject requires that he shall be tried separately, the latter shall be tried separately in accordance with the provisions of Chapter XXIII.

453. (1) When any person claims to be dealt with as an European British subject, he shall state the grounds of such claim to the Magistrate before whom he is brought for the purposes of the inquiry or trial ; and such Magistrate shall inquire into the truth of such statement, and allow the person making it a reasonable time within which to prove that it is true, and shall then decide whether he is or is not an European British subject, and shall deal with him accordingly. If any such person is convicted by such Magistrate, and appeals from such conviction, the burden of proving that the Magistrate's said decision was wrong shall lie upon him.

(2) When any such person is committed by the Magistrate for trial before the Court of Session, and such person, before such Court, claims to be dealt with as an European British subject, such Court shall, after such further enquiry, if any, as it thinks fit, decide whether he is or is not an European British subject, and shall deal with him accordingly. If he is convicted by such Court, and appeals from such conviction, the burden of proving that the Court's said decision was wrong shall lie upon him.



re he is detained or to which he would be entitled to appeal from any conviction for, any such offence, for an order directing the person detaining to bring him before the High Court to abide further order as it may pass.

457. The High Court, if it thinks fit, may, before proceeding on such application, inquire, on affidavit or otherwise, into the facts on which it is applied for, and grant or refuse such application; or it may issue the order in the first instance, and, when the person applying for it is brought before it, it may make such further order in the case as it thinks fit, after such inquiry as it thinks necessary.

458. The High Court may issue such orders throughout the territories within the local limits of its appellate criminal jurisdiction, and in other territories as the Governor-General in Council may direct.

459. (1) Unless there is something repugnant in the context, all enactments heretofore or hereafter made by the Governor-General in Council, which confer on Magistrates or the Court of Session jurisdiction over offences, shall be deemed to apply to European British subjects, although such persons are not expressly referred to therein.

(2) Nothing in this section shall be deemed to authorize any Court to exceed the limits prescribed

presiding in Court of Session, not being a Justice of the Peace.

460. In every case triable by jury or with the Jury for trial of European of assessors, in which an European or American. (not being an European, British subject) or an American is the accused person, or one of the accused persons, not less than half the number of jurors or assessors shall, if practicable, and if such European or American shall be Europeans or Americans.

461. Whenever an European or American charged before the Court of Session jointly with a person of another race or American charged jointly with one of another race in compliance with a jury made under section 460, is tried by a jury, or the aid of a set of assessors, of which at least half consists of Europeans and Americans, the person shall, if he so claims, be tried separately.

462. (1) When a trial is to be held before the Court of Session in which an accused person, or one of accused persons, is entitled to be tried by a jury constituted in accordance with the provisions of section 450, or section 460, or before the Court of a District Magistrate or Superior Judge proceeding under section 451, the Court shall, three days at least before the day fixed for such trial, cause to be summoned, in the manner hereinbefore prescribed, as many European and American jurors as are required for the trial.

(2) The Court shall also, at the same time, and in like manner, cause to be summoned the same number of other persons named in the revised list as

number of such other persons has been already named for trials by jury at that Session.

From the whole number of persons returned jurors who are to constitute the jury shall be chosen by lot in the manner prescribed in section 319 until a jury containing the proper number of Europeans or Americans, or a number approaching as nearly as practicable, has been obtained :

Provided that, in any case in which the proper number of Europeans and Americans cannot otherwise be obtained, the Court may, in the discretion, for the purpose of constituting the jury summon any person excluded from the list on the ground of his being exempted under section 320.

53. Criminal proceedings against European British subjects, European not being European British subjects, and Americans, before the Court of Session and High Court, except as otherwise expressly provided, be conducted according to the provisions of this Code.

## CHAPTER XXXIV

### LUNATICS.

54. (1) When a Magistrate holding an inquiry or a trial has reason to believe that the accused is of unsound mind and consequently incapable of making his defence, the Magistrate shall inquire into the fact of such unsoundness, and shall cause such person to be examined by a medical officer of the district or Government Surgeon.



Court shall report the case to the Local Government, demanding the accused to custody pending orders, and the Local Government may order the accused to be confined in a lunatic asylum, jail or other suitable place of safe custody, and the Magistrate or Court shall give effect to such order.

467. (1) Whenever an inquiry or a trial is postponed under section 464 or section 465, the Magistrate or Court, as the case may be, may at any time resume the inquiry or trial, and require the accused to appear or be brought before such Magistrate or Court.

(2) When the accused has been released under section 466, and the sureties for his appearance produce him to the officer whom the Magistrate or Court appoints in this behalf, the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence.

468 (1) If, when the accused appears or is again brought before the Magistrate or the Court, as the case may be, the Magistrate or Court considers him capable of making his defence, the inquiry or trial shall proceed.

(2) If the Magistrate or Court considers the accused person to be still incapable of making his defence, the Magistrate or Court shall again act according to the provisions of section 464 or section 465, as the case may be.

469. When the accused appears to be of sound mind at the time of inquiry or trial, and the Magistrate is satisfied from the evidence given be-



fore him that there is reason to believe that the accused committed an act which, if he had been of sound mind, would have been an offence, and that he was, at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act or that it was wrong or contrary to law, the Magistrate shall proceed with the case, and, if the accused ought to be committed to the Court of Session or High Court, send him for trial before the Court of Session or High Court, as the case may be.

470. Whenever any person is acquitted upon the ground that, at the time when he is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

471. (1) Whenever such judgment states that the accused person committed the act alleged, the Magistrate or Court before whom or where the trial has been held, shall, if such act would constitute an offence, order such person to be confined in a lunatic asylum, jail or other suitable place of safe custody, and shall report the case for the views of the Local Government.

(2) The Local Government may order such person to be confined in a lunatic asylum, jail or other suitable place of safe custody.

(3) The Governor-General in Council may, by general or special order, direct that any person whom the Local Government has ordered under this chapter to be confined in a lunatic asylum, jail or other place of safe custody, shall be removed from the place where he is confined, to any lunatic asylum, jail or other place of safe custody in British India.

(4) The Local Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 466 or this section, to discharge all or any of the functions of the Inspector-General of Prisons under section 472, section 473 or section 474.

472. When any person is confined under the provisions of section 466 or section 471, the Inspector-General of Prisons, if such person is confined in a jail, or the visitors of the lunatic asylum, any two of them if he is confined in a lunatic asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector-General or by two of his visitors as aforesaid; and such Inspector-General or visitors shall make a special report to the Local Government as to the state of mind of such person.

473. If such person is confined under the provisions of section 466, and such Inspector-General or visitors shall certify that, in his or their opinion, such person is capable of making defence

of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court appoints, and the Magistrate or Court may receive as evidence.

474. (1) If such person is confined under the provisions of section 466 or section 471, and such Inspector General or visitors shall certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon order him to be discharged, or to be detained in custody, or to be transferred to a public lunatic asylum if he has been already sent to such an asylum, and, in the orders him to be transferred to an asylum, may appoint a commission, consisting of a judicial and medical officers.

(2) Such commission shall make formal inquiry into the state of mind of such person, taking evidence as is necessary, and shall report to the Local Government, which may order his discharge or detention as it thinks fit.

475. (1) Whenever any relative or friend of a person confined under the provisions of section 466 or section 471 desires that he shall be delivered over to the care of relative, or to the care and custody, the Local Government, upon application of such relative or friend, and on giving security to the satisfaction of such Government that the person delivered shall be properly taken care of and shall be prevented from doing

to himself or to any other person, may order a person to be delivered to such relative or friend.

(2) Whenever such person is so delivered, it shall be upon condition that he shall be produced to the inspection of such officer and at such times as the Local Government directs.

(3) The provisions of sections 472 and 474 shall, *mutatis mutandis* apply to persons delivered under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be receivable as evidence.

## CHAPTER XXXV.

### PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE.

476. (1) When any Civil, Criminal or Revenue Court is of opinion that there is ground for inquiring into any offence referred to in section 95 and committed before it or brought under its notice in the course of a judicial proceeding, such Court, after making any preliminary inquiry that may be necessary, may send the case for inquiry at class, or to a Magistrate; and may bind over any person to appear and give evidence on such inquiry or trial.

(2) Such Magistrate shall thereupon proceed according to law, and as if upon complaint made and recorded under section 200, and may, if he is authorized under section 192 to transfer cases,



VIII., and shall be deemed to have been held Magistrate.

79. When any such commitment is made by a Civil or Revenue Court, the Court shall send the charge with the order of commitment and record of the case to the Presidency Magistrate, District Magistrate or other Magistrate authorized

the prosecution and defence.

80. (1) When any such offence as is described in section 175, section 178, section 179, section 180 or section of the Indian Penal Code, is committed in the presence of any Civil, Criminal or Revenue Court, the Court may cause the offender whether he is a European British subject or not, to be detained in custody; and, at any time before the trial of the Court on the same day may, if it

commitment for a term which may extend to one month, unless such fine be sooner paid

(2) Nothing in section 443 or section 444 shall be deemed to apply to proceedings under this section.

81. (1) In every such case the Court shall record in such case the facts constituting the offence, with the statement (if made) by the offender, as well as the finding and sentence.

(2) If the offence is under section 228 of the Indian Penal Code, the record shall show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult.

482. (1) If the Court in any case considers that a person accused of any offence referred to in section 480 and committed in its view should not be tried by the Court, it may, if it is of opinion that the Court is for any other reason of opinion that the case should not be disposed of under section 481, such Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such accused person before such Magistrate, or if sufficient security is not given, shall forward such person in custody to such Magistrate.

(2) The Magistrate to whom any case is forwarded under this section shall proceed to try the complaint against the accused person in manner hereinbefore provided.

483. When the Local Government so directs any Registrar or any Sub-Registrar appointed under the Indian Registration Act, 1877 shall be deemed to be a Civil Court within the meaning of sections 480 and 482.

When Registrar or Sub-Registrar to be deemed a Civil Court within sections 480 and 482.

sections 480 and 482.

484. When any Court has under section 480 adjudged an offender to punish-  
 Discharge of offen- or or submission or ment for refusing or omitting  
 apology. to do anything which he was  
 lawfully required to do, or for any intentional in-  
 ult or interruption, the Court may, in its discretion,  
 discharge the offender or remit the punishment on  
 his submission to the order or requisition of such  
 Court, or on apology being made to its satisfaction.

485. If any witness or person called to produce  
 Imprisonment or a document or thing before a  
 committal of person Criminal Court refuses to ans-  
 refusing to answer or wer such questions as are put to  
 produce document him, or to produce any document  
 or thing in his possession or power which the Court  
 requires him to produce, and does not offer any rea-  
 sonable excuse for such refusal, such Court may,  
 for reasons to be recorded in writing, sentence him  
 to simple imprisonment, or by warrant under the  
 hand of the presiding Magistrate or Judge commit  
 him to the custody of the keeper of the Court, for any  
 term not exceeding three months, unless in the mean-  
 time he has produced the document or thing. In  
 the event of his persisting in his refusal, he may be  
 dealt with according to the provisions of section 480  
 or section 482, and, in the case of a Court establish-  
 ed by Royal Charter, shall be deemed guilty of a  
 contempt.

486. (1) Any person sentenced by any Court  
 Appeals from con- under section 480 or section 485  
 strictions in contempt may, notwithstanding anything  
 cases. hereinbefore contained, appeal  
 to the Court to which decrees or orders made in such  
 Court are ordinarily appealable.





of Session or High Court from himself coming any case to such Court

## CHAPTER XXXVI.

### THE MAINTENANCE OF WIVES AND CHILDREN.

488. (1) If any person having sufficient means neglects or refuses to maintain his wife or his legitimate or

order for maintenance of wives and children, a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding fifty rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.

(2) Such allowance shall be payable from the date of the order, or if so ordered from the date of application for maintenance

(3) If any person so ordered wilfully neglects or refuses to comply with the order, any Magistrate may, for every breach of the order, issue a warrant for levying the amount due in manner hereinbefore provided for levying fines, and may sentence such person, for the whole or any part of each month's allowance remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment is made.

Provided that, if such person offers to maintain his wife on condition of her living with him, and she



The accused may be proceeded against in district where he resides or is, or where he last lived with his wife, or, as the case may be, the mother of the illegitimate child.

9. On proof of a change in the circumstances of any person receiving under section 488 a monthly allowance, ordered under the same section to pay a monthly allowance to his wife or child, the Magistrate may alter the allowance as he thinks fit; but the allowance the whole be not

10. A copy of the order of maintenance shall be given without payment to the person in whose favour it is made, or to his guardian, if any, or to the person to

Magistrate being satisfied as to the identity of the person and the non-payment of the allowance due.

## CHAPTER XXXVII.

### SECTIONS OF THE NATURE OF A HABEAS CORPUS.

491. (1) Any of the High Courts of Judicature at Fort William, Madras and Bombay may, whenever it thinks fit, direct—

(a) that a person within the limits of its ordinary original civil jurisdiction be brought up before the Court to be dealt with according to law;

- (b) that a person illegally or improperly detained in public or private custody within such limits be set at liberty ;
- (c) that a prisoner detained in any jail sit within such limits be brought before the Court to be there examined as a witness in any matter pending, or to be inquired into in such Court ;
- (d) that a prisoner detained as aforesaid be brought before a Court-martial or any Commissioners acting under the authority of any Commission from the Governor-General in Council for trial or to be examined touching any matter pending before such Court-martial or Commissioners respectively ;
- (e) that a prisoner within such limits be removed from one custody to another for the purpose of trial ; and
- (f) that the body of a defendant within such limits be brought in on the Sheriff's return of *cepi corpus* to a writ of attachment.

(2) Each of the said High Courts may, from time to time, frame rules to regulate the procedure in cases under this section.

(3) Nothing in this section applies to persons detained under the Bengal State Prisoners Regulation, 1818, Madras Regulation II. of 1819 or Bombay Regulation XXV. of 1827, or the State Prisoners Act, 1850, or the State Prisoners Act, 1858.

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## ART IX.—SUPPLEMENTARY PROVISIONS.

## CHAPTER XXXVIII.

## OF THE PUBLIC PROSECUTOR.

192. (1) The Governor-General in Council or the Local Government may appoint, generally, or in any case, or any specified class of cases, in any local area, or more officers to be called Public Prosecutors.

(2) In any case committed for trial to the Court of Session, the District Magistrate, or subject to the control of the District Magistrate, the Sub-divisional Magistrate, may, in the absence of the Public Prosecutor, or where no Public Prosecutor has been appointed, appoint any other person not being an officer of police below the rank of Assistant District Superintendent, to be Public Prosecutor for the purpose of such case.

193. The Public Prosecutor may appear and plead without any written authority before any Court in which any case of which he has charge is under inquiry, trial or appeal; and, if any private person instructs a pleader to prosecute in any Court any person in any such case, the Public Prosecutor shall conduct the prosecution and the pleader so instructed shall act therein under his directions.

194. Any Public Prosecutor appointed by the Governor-General in Council or the Local Government may, with the consent of the Court, in cases tried by jury before the return of the verdict, and in other cases

before the judgment is pronounced, withdraw the prosecution of any person ; and upon such drawal,—

- (a) if it is made before a charge has framed, the accused shall be discharged,
- (b) if it is made after a charge has framed, or when under this Code charge is required, he shall be acquitted.

495. (1) Any Magistrate enquiring into or <sup>Permission to conduct</sup> ing any case may permit the prosecution to be conducted by a person other than an officer of police below a rank to be prescribed by the Local Government in this behalf with the previous sanction of the Governor-General in Council, but no person, other than the Advocate-General, Standing Counsel, Government Solicitor, Public Prosecutor or other officer generally or specially empowered by the Local Government, in this behalf shall be entitled to do so without its permission.

(2) Any such officer shall have the like power of withdrawing from the prosecution as is provided by section 494, and the provisions of that section shall apply to any withdrawal by such officer.

(3) Any person conducting the prosecution shall do so personally or by a pleader.

(4) An officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted.

## CHAPTER XXXIX.

## OF BAIL.

196. When any person other than a person  
 what cases bail accused of a non-bailable offence  
 taken. is arrested or detained without  
 warrant by  
 officers or  
 any time  
 any stage of the proceedings before such Court  
 give bail, such person shall be released on bail :

Provided that such officer or Court, if he or it  
 thinks fit, may, instead of taking bail from such  
 person, discharge him on his executing a bond with-  
 sureties for his appearance as hereinafter pro-  
 vided.

497 (1) When any person accused of any non-  
 bailable offence is arrested or  
 detained without warrant by an  
 officer in charge of a police-  
 station, or appears or is brought before a Court, he  
 may be released on bail, but he shall not be so re-  
 leased if there appear reasonable grounds for be-  
 lieving that he has been guilty of the offence of  
 which he is accused.

(2) If it appears to such officer or Court at any  
 stage of the investigation, inquiry or trial, as the  
 case may be, that there are not reasonable grounds  
 for believing that the accused has committed such  
 offence, but that there are sufficient grounds for  
 further inquiry into his guilt, the accused shall,  
 pending such inquiry, be released on bail, or, at the  
 discretion of such officer or Court, on the execution  
 by him of a bond without sureties for his appearance  
 as hereinafter provided.



(3) Any Court may, at any subsequent stage of any proceeding under this Code, cause any person who has been released under this section to be arrested and may commit him to custody.

498. The amount of every bond executed under this chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive; and the High Court or Court of Session may, in any case, whether there be an appeal or conviction or not, direct that any person be admitted to bail, or that the bail required by a police-officer or Magistrate be reduced.

499. (1) Before any person is released on bail or released on his own bond, the bond of accused and sureties for such sum of money as the police-officer or Court, in any case may be, thinks sufficient shall be executed by such person and, when he is released on bail, by one or more sufficient sureties, conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend or otherwise directed by the police-officer or Court in the case may be.

(2) If the case so require, the bond shall bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

500. (1) As soon as the bond has been executed by the person for whose appearance it has been executed shall be released; and, when he is in jail, the Court admitting him to bail shall issue an order for his release to the officer in charge of the jail, and such officer, on receipt of the order, shall release him.

Discharge from custody

Nothing in this section, section 496 or section shall be deemed to require the release of any liable to be detained for some matter other than in respect of which the bond was execut-

1. If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest requiring that the person released on bail be brought before it and may order him to find sufficient sureties; and, on his failing so to do, may commit him to custody.

2. (1) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond, either wholly or so far as relates to the applicants.

(2) On such application being made, the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

(3) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties; and, if he fails to do so, may commit him to custody.

## CHAPTER XL

## OF COMMISSIONS FOR THE EXAMINATION OF WITNESSES

503. (1) Whenever, in the course of an in-

When attendance of witness may be dispensed with. a trial or any other proceeding under this Code, it appears to the Presidency Magistrate, a District Magistrate, a Court of Sessions or the High Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness, cannot be procured without an amount of delay, expense or inconvenience under the circumstances of the case, would be

reasonable, such Magistrate or Court may dispense with attendance, and may issue a commission to any District Magistrate or Magistrate of the first class, within local limits of whose jurisdiction such witness resides to take the evidence of such witness.

(2) When the witness resides in the territory of any Prince or Chief in India in which there is an officer representing the British Indian Government, the commission may be issued to such officer.

(3) The Magistrate or officer to whom the commission is issued, or, if he is the District Magistrate or such Magistrate of the first class as he points in this behalf, shall proceed to the place where the witness is or shall summon the witness before him, and shall take down his evidence in the same manner, and may, for this purpose, exercise the same powers as in trials of warrant-cases under this Code.

4) Where the commission is issued to such officer as is mentioned in sub-section (2), he may delegate his powers and duties under the commission to any officer subordinate to him whose powers not less than those of a Magistrate of the first class in British India.

504. (1) If the witness is within the local limits of the jurisdiction of any Presidency Magistrate, the Magistrate or Court issuing the commission in case of the witness being within the Presidency town, may direct the same to the said Presidency Magistrate, who thereupon may compel the attendance of, and examine, such witness as if he were a witness in a case pending before himself.

(2) Nothing in this section shall be deemed to affect the power of the High Court to issue commissions under the Slave Trade Act, 1876, section 3.

505. (1) The parties to any proceeding under this Code in which a commission is issued, may respectively examine and cross-examine the witness, and may respectively put forward any interrogatories in writing which the Magistrate or Court directing the commission may deem relevant to the issue, and the Magistrate or Court to whom the commission is directed, shall examine the witness upon such interrogatories.

(2) Any such party may appear before such Magistrate or officer by pleader, or, if not in custody, in person, and may cross-examine and re-examine the witness.

power of Provincial Magistrate to apply for issue of commission.

course of an inquiry or a trial or any other proceeding under this Code before any Magistrate other than a Presidency Magistrate or District Magis-

trial or any other proceeding under this Code before any Magistrate other than a Presidency Magistrate or District Magis-

trate, it appears that a commission ought to be issued for the examination of a witness whose evidence is necessary for the ends of justice, and if the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate shall apply to the District Magistrate, stating the reasons for the application; and the District Magistrate may either issue a commission in the manner herebefore provided or reject the application.

507. (1) After any commission issued under section 503 or section 506 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court out of which it issued; and the commission, the return thereon, and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record.

(2) Any deposition so taken, if it satisfies the conditions prescribed by section 33 of the Indian Evidence Act, 1872, may also be received in evidence at any subsequent stage of the case before another Court.

508. In every case in which a commission is issued under section 503 or section 506, the inquiry, trial, or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

## CHAPTER XLI.

## SPECIAL RULES OF EVIDENCE.

9. (1) The deposition of a Civil Surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, or taken on commission under Chapter XL, may be given in evidence in inquiry, trial or other proceeding under this Code, although the deponent is not called as a witness.

(2) The Court may, if it thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

10. Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government, upon any matter being duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in inquiry, trial or other proceeding under this Code.

11. In any inquiry, trial or other proceeding under this Code, a previous conviction or acquittal may be proved, in addition to any other evidence provided by any law for the time being in force,—

(a) by an extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had to be a copy of the sentence or order ; or

(b) in case of a conviction, either by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was inflicted by production of the warrant of commitment under which the punishment was suffered ;

together with, in each of such cases, evidence to the identify of the accused person with the person so convicted or acquitted.

512. (1) If it is proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court competent to try or commit for trial such person for the offence complained of may, in his absence, examine the witnesses (if produced on behalf of the prosecution, and receive their depositions. Any such deposition may, after the arrest of such person, be given in evidence against him on the inquiry into, or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

(2) If it appears that an offence punishable with death or transportation has been committed by some person or persons unknown, the Magistrate of the Court may direct that any Magistrate of the same class shall hold an inquiry, and examine any witnesses who can give evidence concerning the offence. Any depositions so taken may be given in evidence against any person who is subsequently accused of the offence, if the deponent is dead.

Incapable of giving evidence, or beyond the limits of British India.

## CHAPTER XLII.

### PROVISIONS AS TO BONDS.

513. When any person is required by any Court or officer to execute a bond, with or without sureties, such Court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money or Government promissory notes to such amount as the Court or officer may fix, in lieu of executing such bond.

514. (1) Whenever it is proved to the satisfaction of the Court by which a bond under this Code has been taken, or of the Court of a Presidency Magistrate or Magistrate of the first class,

or, when the bond is for appearance before a Court, to the satisfaction of such Court,

that such bond has been forfeited, the Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof, or to show cause why it should not be paid.

(2) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same by issuing a warrant for the attachment and sale of the movable property belonging to such person or his estate if he be dead.

(3) Such warrant may be executed within the local limits of the District which is—  
and sale  
person  
District



Magistrate or Chief Presidency Magistrate within local limits of whose jurisdiction such property is found.

(4) If such penalty is not paid, and cannot be covered by such attachment and sale, the person bound shall be liable, by order of the Court who issued the warrant, to imprisonment in the civil prison for a term which may extend to six months.

(5) The Court may, at its discretion, remit a portion of the penalty mentioned and enforce payment in part only.

(6) Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond, but the party who gave the bond may be required to find a new surety.

515. All orders passed under section 514

Appeal from, and revision of, orders under section 514, any Magistrate other than a Presidency Magistrate or District Magistrate, shall be appealable to the District Magistrate, or, if not so appealable, may be revised by him.

516. The High Court or Court of Session may

Power to direct levy of amount due on certain recognizance. direct any Magistrate to levy the amount due on a bond to appear and attend at such High Court or Court of Session.

## CHAPTER XLIII.

### OF THE DISPOSAL OF PROPERTY.

517. (1) When an inquiry or a trial in any Criminal Court is concluded, the

Order for disposal of property regarding which offence committed. Court may make such order as it thinks fit for the disposal of any property or document found

used before it or in its custody or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

(2) When a High Court or a Court of Session makes such order and cannot, through its own officers, conveniently deliver the property to the person entitled thereto, such Court may direct that the order be carried into effect by the District Magistrate.

(3) When an order is made under this section in a case in which an appeal lies, such order shall not, except when the property is live-stock, or is subject to speedy and natural decay, be carried out until the period allowed for presenting such appeal has passed, or, when such appeal is presented within such period, until such appeal has been disposed of.

*Explanation* — In this section the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

518. In lieu of itself passing an order under section 517, the Court may direct the property to be delivered to the District Magistrate or to a Sub-divisional Magistrate, who shall in such cases deal with it as if it had been seized by the police and the seizure had been reported to him in the manner hereinafter mentioned

519. When any person is convicted of any offence which includes, or amounts to, theft or receiving stolen property, and it is proved that any

Order may take form  
it reference to Dis-  
trict or Sub-divisional  
Magistrate  
Payment to inno-  
cent purchaser of mo-  
ney found on accused.



court may, if it thinks fit, order such person to be restored to the possession of the same.

(2) No such order shall prejudice any right or interest to or in such immovable property which any person may be able to establish in a civil suit.

523. (1) The seizure by any police-officer of property under section 51, or alleged or suspected to have been stolen, or found under circumstances which create suspicion of the commission of any offence, shall be forthwith reported to a Magistrate, who shall make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or, if such person cannot be ascertained, respecting the custody and production of such property.

(2) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit. If such person is unknown, the Magistrate may detain it, and shall, in such case, issue a proclamation specifying the articles of which the property consists, and the person, who before him claims the property, to appear before him within the period specified in the proclamation.

524. (1) If no person within such period establishes his claim to such property, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, such property shall be at the disposal of the

524. (1) If no person within such period establishes his claim to such property, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, such property shall be at the disposal of the

Government, and may be sold under the order of the Presidency Magistrate, District Magistrate, Sub-divisional Magistrate, or of a Magistrate of first class empowered by the Local Government for this behalf.

(2) In the case of every order passed under this section, an appeal shall lie to the Court to which appeals against sentences of the Court passing the order would lie.

525. If the person entitled to the possession of such property is unknown or absent, and the property is subject to speedy and natural decay, or the Magistrate to whom its seizure is reported is of opinion that its sale would be for the benefit of the owner, the Magistrate may at any time direct it to be sold, and the provisions of sections 523 and 524 shall, so far as may be practicable, apply to the net proceeds of such sale.

## CHAPTER XLIV.

### OF THE TRANSFER OF CRIMINAL CASES

High Court may transfer case or itself try it. 526. (1) Whenever it is made to appear to the High Court—

- (a) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or
- (b) that some question of law of unusual difficulty is likely to arise, or
- (c) that a view of the place in or near which any offence has been committed may be

required for the satisfactory inquiry into or trial of the same, or

- (d) that an order under this section will tend to the general convenience of the parties or witnesses, or
- (e) that such an order is expedient for the ends of justice, or is required by any provision of this Code,

it may order—

- (i) that any offence be inquired into or tried by any Court not empowered under sections 177 to 184 (both inclusive), but, in other respects competent to inquire into or try such offence ;
- (ii) that any particular criminal case or appeal, or class of such cases or appeals be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction ;
- (iii) that any particular criminal case or appeal be transferred to, and tried before, itself ; or
- (iv) that an accused person be committed for trial to itself, or to a Court of Session.

(2) When the High Court withdraws for trial before itself any case from any Court other than a Court of the Presidency Magistrate, it shall, except as provided in section 267, observe in such case the same procedure which that Court would have observed if the case had not been so withdrawn.

(3) The High Court may act either on the report of the Lower Court, or on the application of a party interested, or on its own initiative.

(4) Every application for the exercise of the power conferred by this section shall be made by motion, which shall, except when the applicant is the Advocate-General, be supported by affidavit or affirmation.

(5) When an accused person makes an application under this section, the High Court may direct him to execute a bond, with or without sureties, conditioned, that he will, if convicted, pay the costs of the prosecutor.

(6) When a person makes any such application, the court shall give notice to the prosecutor of the application, and shall adjourn the hearing of the application to a day not less than twenty-four hours after the giving of such notice.

Notice to  
prosecutor of  
application  
under this

copy of the grounds on which it is made, and an order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

(7) Nothing in this section shall be deemed to affect any order made under section 197.

(8) If, in any criminal case or appeal, before the commencement of the hearing, the Public Prosecutor, the complainant or the accused notifies the Court before which the case or appeal is pending his intention to make an application under this section in respect of the case, the Court shall exercise the powers of postponement or adjournment given by section 344 in such a manner as will afford a reasonable time for the application being made and

Adjournment on application under this section.

the Court before which the case or appeal is pending his intention to make an application under this section in respect of the case, the Court shall exercise the powers of postponement or adjournment given by section 344 in such a manner as will afford a reasonable time for the application being made and

order being obtained thereon, before the accused called on for his defence, or, in the case of an appeal, before the hearing of the appeal.

527. (1) The Governor-General in Council may, by notification in the Gazette of India, direct the transfer of any particular criminal case or appeal from one High Court to another High Court, or from any Criminal Court subordinate to one High Court to any other Criminal Court of equal or superior jurisdiction subordinate to another High Court, whenever it appears to him that such transfer will promote the ends of justice, or tend to the general convenience of parties or witnesses.

(2) The court to which such case or appeal is transferred shall deal with the same as if it had been originally instituted in, or presented to, such court.

528. (1) Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate may withdraw any case from, or recall any case which he had made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

(2) The Local Government may authorize the District Magistrate to withdraw from any Magistrate subordinate to him either such classes of cases as he thinks proper, or particular classes of cases.



(3) A Magistrate making an order under section shall record in writing his reasons for the same.

(4) The head of a village under Madras Act IV. of 1821 is a Magistrate for the purposes of this section.

## CHAPTER XLV.

### OF IRREGULAR PROCEEDINGS

Irregularities which do not vitiate proceedings 529. If any Magistrate empowered by law to do the following things, namely

- (a) to issue a search-warrant under section 155;
- (b) to order, under section 155, the police to investigate an offence;
- (c) to hold an inquest under section 176;
- (d) to issue process, under section 186, for the apprehension of a person within the local limits of his jurisdiction who has committed an offence outside such limits;
- (e) to take cognizance of an offence under section 190 sub-section (1), clause (a) or clause (b);
- (f) to transfer a case under section 192;
- (g) to tender a pardon under section 336 or section 338;
- (h) to sell property under section 524 or section 525; or
- (i) to withdraw a case and try it himself under section 528;

erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

530. If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely :—

- (a) attaches and sells property under section 88 ;
- (b) issues a search-warrant for a letter, parcel or other thing in the post-office, or a telegram in the Telegraph Department;
- (c) demands security to keep the peace ;
- (d) demands security for good behaviour ;
- (e) discharges a person lawfully bound to be of good behaviour ;
- (f) cancels a bond to keep the peace ;
- (g) makes an order under section 133 as to a local nuisance ;
- (h) prohibits, under section 143, the repetition or continuance of a public nuisance ;
- (i) issues an order under section 144 ;
- (j) makes an order under Chapter XII. ;
- (k) takes cognizance, under section 190, sub-section (1), clause (c), of an offence ;
- (l) passes a sentence, under section 349 on proceedings recorded by another Magistrate ;
- (m) calls, under section 435, for proceedings ;
- (n) makes an order for maintenance ;
- (o) revises, under section 515, an order passed under section 514 ;



a 164 or section 364 is tendered or has been received in evidence, finds that any of the provisions either of such sections have not been complied with by the Magistrate recording the statement, shall take evidence that such person duly made a statement recorded; and, notwithstanding anything contained in the Indian Evidence Act, 1872, section 91, such statement shall be admitted, if the Court has not injured the accused as to his defence or the merits.

(2) The provisions of this section apply to Courts of appeal, reference and revision.

534. An omission to ask any person whether he is an European British subject, in a case to which subsection (2) of section 454, applies, shall not affect the validity of any proceeding.

535. (1) No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no charge was framed, unless, in the opinion of the Court of appeal or revision, a failure of justice has in fact been occasioned thereby.

(2) If the Court of appeal or revision thinks that a failure of justice has been occasioned by an omission to frame a charge, it shall order that a charge be framed, and that the trial be recommenced from the point immediately after the framing of the charge.

536. (1) If an offence triable with the aid of assessors is tried by a jury, the trial shall on that ground only be invalid.



tion could and should have been raised at an earlier stage in the proceedings.

*Illustration.*

A Magistrate being required by law to sign a document solely an irregularity, proceeding.

538. No distress made under this Code shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of distress or other proceeding relating thereto.

## CHAPTER XLVI.

### MISCELLANEOUS

539. Affidavits and affirmations to be used before any High Court or any officer of such Court may be sworn and affirmed before such Court the Clerk of the Crown, or any Commissioner or other person appointed by such Court for that purpose, or any Judge, or any Commissioner for taking affidavits in any Court of Record in British India, or any Commissioner to administer oaths in England or Ireland, or any Magistrate authorized to take affidavits or affirmations in Scotland.

540. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person



amed, to the Magistrate for examination.

(2) The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the jail for the purpose aforesaid.

543. When the services of an interpreter are required by any Criminal Court and to interpret for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

544. Subject to any rules made by the Local Government with the previous sanction of the Governor-General in Council, any Criminal Court may, if it thinks fit, order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Code.

545. (1) Whenever under any law in force for the time being a Criminal Court imposes a fine or confirms in appeal, revision or otherwise a sentence of fine, or a sentence of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied—

(a) in defraying expenses properly incurred in the prosecution ;





trial, and when any person is brought before a Magistrate and charged with an offence for which he is liable, under the Army Act, section 41, to be tried by a Court-martial, such Magistrate shall have regard to such rules, and shall in proper cases deliver him, together with a statement of the offence of which he is accused, to the commanding officer of the regiment, corps or detachment to which he belongs, or to the commanding officer of the nearest military station, for the purpose of being tried by Court-martial.

(2) Every

Apprehension of a  
persons

body of troops stationed or employed at any such place, use his utmost endeavours to apprehend and secure any person accused of such offence.

550. Any police-officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence. Such police-officer, if subordinate to the officer in charge of a police-station, shall forthwith report the seizure to that officer.

551. Police-officer

Powers of superior officers of police

out the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

552. Upon complaint made to a Presidency Magistrate or District Magistrate on oath of the abduction or unlawful detention of a woman, or



Royal Charter, may, from time to time, make rules for the inspection of the records of subordinate Courts.

(2) Every High Court not established by Royal Charter may, from time to time, and with the previous sanction of the Local Government,—

Power of other High Courts to make rules or other purposes.

- (a) make rules for keeping all books, entries and accounts to be kept in all Criminal Courts subordinate to it, and for the preparation and transmission of any returns or statements to be prepared and submitted by such Courts ;
- (b) frame forms for every proceeding in the said Courts for which it thinks that a form should be provided ;
- (c) make rules for regulating its own practice and the practice and proceedings of all Criminal Courts subordinate to it ; and
- (d) make rules for regulating the execution of warrants issued under this Code for the levy of fines :

Provided that the rules and forms made and framed under this section shall not be inconsistent with this Code or any other law in force for the time being.

(3) All rules made under this section shall be published in the local official Gazette.

555. Subject to the power conferred by section

Forms.

553, and by section 15 of the Indian High Courts Act, 1861, the forms set forth in the fifth schedule, with such variation as the circumstances of each case require,



ministered by such Government, other than the High Courts established by Royal Charter.

559. All powers conferred by this Code on the Governor-General in Council or on the Local Government may be exercised from time to time as occasion requires.

Powers of Governor-General in Council and Local Government exercisable from time to time

560. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property.

Officer concerned in sales not to purchase or bid for property.

561. (1) Notwithstanding anything in this Code, no Magistrate except a Chief Presidency Magistrate or District Magistrate shall—

Special provisions with respect to offence of rape by a husband

(a) take cognizance of the offence of rape where the sexual intercourse was by a man with his wife, or

(b) commit the man for trial for the offence.

(2) Notwithstanding anything in this

offence as is referred to in sub-section (1), no police-officer of rank below that of police-inspector shall be employed either to make, or to take part in the investigation.

### *First Offenders.*

562. In any case in which a person is convicted

Power to Court to release upon probation of good conduct instead of sentencing to punishment.

ing, or any other offence under the Indian Penal Code, punishable with not more than two

years' imprisonment before any Court, and no previous conviction is proved against him, if it appears to the Court before whom he is so convicted, the regard being had to the youth, character and antecedents of the offender, to the trivial nature of the offence, and to any extenuating circumstances on which the offence was committed, it is expedient that the offender be released on probation of good conduct the Court may, instead of sentencing him at once to any punishment, direct that he be released on entering into a bond with or without sureties, and during such period (not exceeding one year) the Court may direct, to appear and receive sentence when called upon, and in the meantime to keep the peace and be of good behaviour :

Provided that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate of the second class not specially empowered by the Local Government in this behalf, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion

and shall cause the offender to appear before, such Magistrate, who shall do so of the case in manner provided by section 380.

563. (1) If the Court which convicted the offender, or a Court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension

PROVISION in case of offender failing to observe conditions of his recognizances.

(2) An offender, when apprehended on any such warrant, shall be brought forthwith before the Court

uing the warrant, and such Court may either re-  
and him in custody until the case is heard or admit  
im to bail with a sufficient surety conditioned on  
is appearing for sentence. Such Court may, after  
earing the case, pass sentence.

564. (1) The C . . . . .

conditions as to abode  
offender.

r his surety (if any) has a fixed place of abode or  
regular occupation in the place for which the Court  
ots or in which the offender is likely to live during  
he period named for the observance of the conditions.

(2) Nothing in this section or in sections 562 and  
63 shall affect the provisions of section 31 of the  
Reformatory Schools Act, 1897.

*Previously-convicted Offenders.*

565. (1) When any person, having been con-

Order for notifying  
address of previously-  
convicted offender . . . . .

with imprisonment for a term of three years or up-  
wards, is again convicted of any offence punishable  
under either of those chapters with imprisonment for  
a term of three years or upwards by a High Court,  
Court of Session, Presidency Magistrate, District  
Magistrate, Sub-divisional Magistrate or any Magis-  
trate of the first class specially empowered by the  
Local Government in this behalf, such Court or Ma-  
gistrate may, if it or he thinks fit, at the time of  
passing sentence of transportation or imprisonment  
on such person, . . . . . is residence and any  
be notified, as here-  
exceeding five years  
from the date of the expiration of such sentence.



(2) If such conviction is set aside on appeal, otherwise, such order shall become void.

(3) The Local Government, with the sanction of the Governor-General in Council, make rules to carry out the provisions of this section relating to the notification of residence by reconvicts.

(4) Any person refusing or neglecting to comply with any rule so made shall be punishable as if he had committed an offence under section 176 of the Indian Penal Code.

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## SCHEDULES :

I.—ENACTMENTS REPEALED.

II.—TABULAR STATEMENTS OF OFFENCES.

III.—ORDINARY POWERS OF PROVINCIAL MAGISTRATES.

IV.—ADDITIONAL POWERS WITH WHICH PROVINCIAL MAGISTRATES MAY BE INVESTED.

V.—FORMS.

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**SCHEDULE I.**  
**ENACTMENTS REPEALED.**  
*(See section 2.)*

| Year.    | No.   | Short title or subject.                                               | Extent of repeal.                                                           |
|----------|-------|-----------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1875 ..  | X.    | High Courts' Criminal Procedure.                                      | The whole.                                                                  |
| 1882 ..  | X.    | The Code of Criminal Procedure, 1882.                                 | The whole                                                                   |
| 1884 ..  | III.  | The Criminal Procedure Code Amendment Act, 1884                       | The whole                                                                   |
| 1886 ... | X.    | Amending the Code of Criminal Procedure, 1882, and certain other Acts | Sections 1 to 11 inclusive)                                                 |
| 1887 ... | V.    | Amending the Code of Criminal Procedure, 1882.                        | The whole.                                                                  |
| "        | XIV   | The Indian Marine Act, 1887.                                          | Section 78.                                                                 |
| 1889 ..  | I     | The Metal Tokens Act, 1889.                                           | Section 7.                                                                  |
| "        | V.    | Abolishing the Office of Coroner of Madras                            | Section 4, sub-section (1)                                                  |
| "        | XI.   | The Lower Burma Courts Act, 1889.                                     | So much of the schedule as relates to the Code of Criminal Procedure, 1882. |
| "        | XIII. | The Cantonments Act, 1883.                                            | So much of the schedule as relates to the Code of Criminal Procedure, 1882. |

## SCHEDULE I — (concluded).

## ENACTMENTS REPEALED — (concluded).

| Year.    | No.  | Short title or subject                                                           | Extent of repeal.                                           |
|----------|------|----------------------------------------------------------------------------------|-------------------------------------------------------------|
| 1891 .   | III. | Amending the Indian Evidence Act, 1872, and the Code of Criminal Procedure, 1882 | Section 9,                                                  |
| " .      | IV.  | Amending the Code of Criminal Procedure, 1882                                    | The whole.                                                  |
| " ...    | X    | Amending the Indian Penal Code and the Code of Criminal Procedure, 1882          | Sections 2 and 3.                                           |
| " ..     | XII  | The Repealing and Amending Act, 1891                                             | So much as relate to, the Code of Criminal Procedure, 1882, |
| 1891 ... | III  | Amending the Code of Criminal Procedure, 1882, and the Indian Penal Code         | Sections 1 to 4, (both inclusive)                           |
| " ...    | X    | Amending the Code of Criminal Procedure, 1882,                                   | The whole.                                                  |
| 1893 .   | IV   | Amending sections 306 and 371 of the Code of Criminal Procedure, 1882            | The whole.                                                  |
| 1896 ... | XIII | Amending the Code of Criminal Procedure, 1882                                    | The whole.                                                  |

*Explanatory Note.*—The entries in the second and seventh columns under the Indian Penal Code, are not intended as definitions of the sections of the Indian Penal Code, or even as abstracts of those sections, the number of which is given in the first column.

The third column of this schedule applies also to the police units.

| 1        | 2                                                                                                                                   | 3                                                                                                           | 4                                                      |
|----------|-------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                                            | Whether the police may arrest without warrant or not.                                                       | Whether a warrant shall be issued or not.              |
| 103      | Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment. | May arrest without warrant if arrest for the offence abetted may be made without warrant but not otherwise. | According to a warrant or process issued by the court. |
| 110      | Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.                    | Ditto                                                                                                       | Ditto                                                  |

## ULE II.

## ENT OF OFFENCES.

this schedule, headed respectively "Offence" and "Punishment," shall be a statement of the offences and punishments described in the several corresponding sections of the Penal Code, but merely as references to the subject of the section, the

of Calcutta and Bombay.

## EMENT.

| 5                                                    | 6                                                        | 7                                               | 8                                               |
|------------------------------------------------------|----------------------------------------------------------|-------------------------------------------------|-------------------------------------------------|
| Whether bailable or not.                             | Whether compoundable or not                              | Punishment under the Indian Penal Code.         | By what Court triable.                          |
| According as the offence abetted is bailable or not. | According as the offence abetted is compoundable or not. | The same punishment as for the offence abetted. | The Court which the offence abetted is triable. |
| Ditto ..                                             | Ditto ...                                                | Ditto ...                                       | Ditto.                                          |

| 1        | 2                                                                                                                                        | 3                                                                                                            | 4                                                                     |
|----------|------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                                                 | Whether the police may arrest without warrant or not                                                         | Whether warrant or summons shall only be issued in the first instance |
| 11       | Abetment of any offence, when one act is abetted, and a different act is done; subject to the proviso                                    | May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise. | According to a warrant or summons issued for the offence abetted.     |
| 3        | Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor.                        | Ditto                                                                                                        | Ditto                                                                 |
|          | Abetment of any offence, if abettor is present when offence is committed.                                                                | Ditto                                                                                                        | Ditto                                                                 |
|          | Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment. | Ditto                                                                                                        | Ditto                                                                 |
|          | If an act which causes harm be done in consequence of the abetment                                                                       | Ditto                                                                                                        | Ditto                                                                 |

ABETMENT—*continued*

| 5                                                    | 6                                                        | 7                                                             | ■                                                  |
|------------------------------------------------------|----------------------------------------------------------|---------------------------------------------------------------|----------------------------------------------------|
| Whether bailable or not.                             | Whether compoundable or not.                             | Punishment under the Indian Penal Code.                       | By what Court triable.                             |
| According as the offence abetted is bailable or not. | According as the offence abetted is compoundable or not. | The same punishment as for the offence intended to be abetted | The Court by which the offence abetted is triable. |
| Ditto ...                                            | Ditto .                                                  | The same punishment as for the offence committed.             | Ditto.                                             |
| Ditto .                                              | Ditto .                                                  | Ditto ...                                                     | Ditto.                                             |
| Not bailable                                         | Ditto ...                                                | Imprisonment of either description for 7 years and fine       | Ditto.                                             |
| Ditto ...                                            | Ditto ...                                                | Imprisonment of either description for 14 years and fine.     | Ditto.                                             |



| 1        | 2                                                                                                                                                                                                                                    | 3                                                                                                                                  | 4                                                                                         |
|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                                                                                                                                             | Whether the police may arrest without warrant or not.                                                                              | Whether warrants shall be issued for the offence.                                         |
| 116      | <p>Abetment of an offence, punishable with imprisonment, if the offence be not committed in consequence of the abetment.</p> <p>If the abettor or the person abetted be a public servant whose duty it is to prevent the offence</p> | <p>May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise</p> <p>Ditto ..</p> | <p>According to a warrant summons may be issued for the offence abetted.</p> <p>Ditto</p> |
| 117      | Abetting the commission of an offence by the public, or by more than ten persons.                                                                                                                                                    | Ditto                                                                                                                              | Ditto                                                                                     |
| 118      | <p>Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.</p> <p>If the offence be not committed ...</p>                                                            | <p>Ditto</p> <p>Ditto</p>                                                                                                          | <p>Ditto</p> <p>Ditto</p>                                                                 |

STATEMENT—(concluded).

| 5                                                                | 6                                                                      | 7                                                                                                                                                  | 8                                                            |
|------------------------------------------------------------------|------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|
| Whether<br>bailable or<br>not.                                   | Whether<br>compound-<br>able or not.                                   | Punishment under the<br>Indian Penal Code                                                                                                          | By what Court<br>triable.                                    |
| According as<br>the offence<br>abetted is<br>bailable or<br>not. | According as<br>the offence<br>abetted is<br>compound-<br>able or not. | Imprisonment extend-<br>ing to a quarter part<br>of the longest term,<br>and of any descrip-<br>tion provided for the<br>offence, or fine, or both | The Court by<br>which the of-<br>fence abetted<br>is triable |
| Ditto                                                            | Ditto                                                                  | Imprisonment extend-<br>ing to half of the long-<br>est term, and of any<br>description, provided<br>for the offence, or fine,<br>or both          | Ditto.                                                       |
| Ditto                                                            | Ditto                                                                  | Imprisonment of either<br>description for 3 years,<br>or fine, or both.                                                                            | Ditto.                                                       |
| Not bailable                                                     | Ditto                                                                  | Imprisonment of either<br>description for 7 years,<br>and fine                                                                                     | Ditto.                                                       |
| Ditto                                                            | Ditto                                                                  | Imprisonment of either<br>description for 3 years,<br>and fine.                                                                                    | Ditto.                                                       |

| 1        | 2                                                                                                                                                                                                                                                  | 3                                                                                                                                                  | 4                                                                                              |
|----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                                                                                                                                                           | Whether the police may arrest without warrant or not.                                                                                              | Whether warrant shall be issued in the first instance.                                         |
| 119      | <p>A public servant concealing a design to commit an offence which it is his duty to prevent if the offence be committed.</p> <p>If the offence be punishable with death or transportation for life.</p> <p>If the offence be not committed...</p> | <p>May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise</p> <p>Ditto ..</p> <p>Ditto ..</p> | <p>Accord-<br/>a war-<br/>sum-<br/>may be<br/>the of<br/>abetted</p> <p>Ditto</p> <p>Ditto</p> |
| 120      | <p>Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.</p> <p>If the offence be not committed...</p>                                                                                               | <p>Ditto</p> <p>Ditto</p>                                                                                                                          | <p>Ditto</p> <p>Ditto</p>                                                                      |

MENT—(continued).

| 5                                                        | 6                                                                      | 7                                                                                                                                                      | 8                                                               |
|----------------------------------------------------------|------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|
| Whether<br>able or<br>not                                | Whether<br>compound-<br>able or not                                    | Punishment under the<br>Indian Penal Code                                                                                                              | By what Court<br>triable.                                       |
| According as<br>offence<br>abettled is<br>able or<br>not | According as<br>the offence<br>abettled is<br>compound-<br>able or not | Imprisonment extending<br>to half of the longest<br>term, and of any des-<br>cription, provided for<br>the offence, or fine, or<br>both                | The Court by<br>which the of-<br>fence abett-<br>ed is triable. |
| bailable                                                 | Ditto                                                                  | Imprisonment of either<br>description for 10 years                                                                                                     | Ditto.                                                          |
| According as<br>offence<br>abettled is<br>able or<br>not | Ditto                                                                  | Imprisonment extend-<br>ing to a quarter part<br>of the longest term,<br>and of any descrip-<br>tion, provided for the<br>offence, or fine, or<br>both | Ditto.                                                          |
| to                                                       | Ditto                                                                  | Ditto                                                                                                                                                  | Ditto.                                                          |
| to                                                       | Ditto                                                                  | Imprisonment extend-<br>ing to one-eighth part<br>of the longest term,<br>and of the descrip-<br>tion, provided for the<br>offence, or fine, or both   | Ditto.                                                          |

## CHAPTER VI.—Off

| 1        | 2                                                                                                              | 3                                                    |                                          |
|----------|----------------------------------------------------------------------------------------------------------------|------------------------------------------------------|------------------------------------------|
| SECTION. | OFFENCE.                                                                                                       | Whether the police may arrest without warrant or not | Whether warrant shall be issued therefor |
| 121      | Waging or attempting to wage war, or abetting the waging of war, against the Queen.                            | Shall not arrest without warrant                     | Warrant                                  |
| 121A     | Conspiring to commit certain offences against the State.                                                       | Ditto                                                | Ditto                                    |
| 122      | Collecting arms, &c, with the intention of waging war against the Queen.                                       | Ditto                                                | Ditto                                    |
| 123      | Concealing with intent to facilitate, a design to wage war.                                                    | Ditto                                                | Ditto                                    |
| 124      | Assaulting Governor-General, Governor, &c, with intent to compel or restrain the exercise of any lawful power. | Ditto                                                | Ditto                                    |

## NST THE STATE.

| 5                          | 6                                    | 7                                                                                                                     | 8                         |
|----------------------------|--------------------------------------|-----------------------------------------------------------------------------------------------------------------------|---------------------------|
| Whether<br>able or<br>not. | Whether<br>compound-<br>able or not. | Punishment under the<br>Indian Penal Code                                                                             | By what Court<br>triable. |
| bail-<br>le.               | Not com-<br>poundable.               | Death or transporta-<br>tion for life, and for-<br>feiture of property                                                | Court of Session.         |
| to ...                     | Ditto ..                             | Transportation for life<br>or any shorter term,<br>or imprisonment of<br>either description for<br>10 years           | Ditto. ...                |
| to ..                      | Ditto ..                             | Transportation for life<br>or imprisonment of<br>either description for<br>10 years, and forfei-<br>ture of property. | Ditto ...                 |
| to ...                     | Ditto ..                             | Imprisonment of either<br>description for 10<br>years, and fine.                                                      | Ditto. ...                |
| to ...                     | Ditto ..                             | Imprisonment of either<br>description for 7<br>years, and fine.                                                       | Ditto ...                 |



INSTEAD THE STATE—(concluded).

| 5                              | 6                                   | 7                                                                                                                                         | 8                                                                                                                                                                                                                         |
|--------------------------------|-------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not. | Whether<br>compound-<br>able or not | Punishment under the<br>Indian Penal Code.                                                                                                | By what Court<br>triable.                                                                                                                                                                                                 |
| bailable                       | Not com-<br>poundable.              | Transportation for life<br>or for any term and<br>fine, or imprisonment<br>of either description<br>for three years and<br>fine, or fine. | Court of Ses-<br>sion, Chief Pre-<br>sidency Magis-<br>trate, or Dis-<br>trict Magis-<br>trate, or Ma-<br>gistrate of the<br>first class spe-<br>cially empow-<br>ered by the<br>Local Govern-<br>ment in that<br>behalf. |
| to                             | Ditto                               | Transportation for life<br>and fine, or imprison-<br>ment of either des-<br>cription for 7 years<br>and fine, or fine                     | Court of Session.                                                                                                                                                                                                         |
| to                             | Ditto                               | Imprisonment of either<br>description for 7 years<br>and fine, and for-<br>feiture of certain prop-<br>erty.                              | Ditto                                                                                                                                                                                                                     |
| to                             | Ditto                               | Ditto                                                                                                                                     | Ditto.                                                                                                                                                                                                                    |





## IN THE STATE—(concluded).

| 5                             | 6                                  | 7                                                                                              | 8                                                                                           |
|-------------------------------|------------------------------------|------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not | Whether<br>compund-<br>able or not | Punishment under the<br>Indian Penal Code                                                      | By what Court<br>triable.                                                                   |
| Not bailable                  | Not com-<br>poundable              | Transportation for life,<br>or imprisonment of<br>either description for<br>10 years and fine  | Court of Ses-<br>sion.                                                                      |
| Bailable                      | Ditto                              | Simple imprisonment<br>for 3 years and fine                                                    | Court of Ses-<br>sion, Presiden-<br>cy Magistrate<br>or Magistrate<br>of the first<br>class |
| Not bailable                  | Ditto                              | Transportation for life,<br>or imprisonment of<br>either description for<br>10 years, and fine | Court of Ses-<br>sion                                                                       |

## THE ARMY AND NAVY.

|           |                       |                                                                                                |                        |
|-----------|-----------------------|------------------------------------------------------------------------------------------------|------------------------|
| Bailable. | Not com-<br>poundable | Transportation for life,<br>or imprisonment of<br>either description for<br>10 years and fine. | Court of Ses-<br>sion. |
|-----------|-----------------------|------------------------------------------------------------------------------------------------|------------------------|

## CHAPTER VII.—OFFENCES REL.

| 1       | 2                                                                                                                   | 3                                                    | 4                                 |
|---------|---------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|-----------------------------------|
| SECTION | OFFENCE.                                                                                                            | Whether the police may arrest without warrant or not | When warrant shall only be issued |
|         |                                                                                                                     |                                                      |                                   |
| 132     | Abetment of mutiny if mutiny is committed in consequence thereof                                                    | May arrest without warrant                           | Warrant                           |
| 133     | Abetment of an assault by an officer, soldier or sailor on his superior officer when in the execution of his office | Ditto                                                | Ditto                             |
| 134     | Abetment of such assault, if the assault is committed.                                                              | Ditto                                                | Ditto                             |
| 135     | Abetment of the desertion of an officer, soldier or sailor                                                          | Ditto                                                | Ditto                             |
| 136     | Harbouring such an officer, soldier or sailor who has deserted.                                                     | Ditto                                                | Ditto                             |
| 137     | Deserter concealed on board merchant-vessel, through negligence of master or person in charge thereof.              | Shall not arrest without warrant.                    | Somerset                          |

## THE ARMY AND NAVY—(concluded.)

| 5                          | 6                                    | 7                                                                                               | 8                                                                         |
|----------------------------|--------------------------------------|-------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| Whether<br>able or<br>not. | Whether<br>compound-<br>able or not. | Punishment under the<br>Indian Penal Code                                                       | By what Court<br>triable                                                  |
| Not bailable               | Not compoundable                     | Death, or transportation for life, or imprisonment of either description for 10 years and fine. | Court of Session.                                                         |
| to ...                     | Ditto ...                            | Imprisonment of either description for 3 years and fine                                         | Court of Session, Presidency Magistrate, or Magistrate of the first class |
| to ...                     | Ditto                                | Imprisonment of either description for 7 years and fine                                         | Court of Session.                                                         |
| Not bailable ...           | Ditto                                | Imprisonment of either description for 2 years, or fine, or both                                | Presidency Magistrate, or Magistrate of the first or second class         |
| to ...                     | Ditto                                | Ditto ...                                                                                       | Ditto                                                                     |
| to ...                     | Ditto ...                            | Fine of 500 rupees                                                                              | Ditto.                                                                    |

## CHAPTER VII.—OFFENCES RELATIVE

| 1        | 2                                                                                                                         | 3                                                    | 4                                              |
|----------|---------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                                  | Whether the police may arrest without warrant or not | Whether a warrant shall or shall not be issued |
| 138      | Abetment of act of insubordination by an officer, soldier or sailor if the offence be committed in consequence            | May arrest without warrant                           | Warrant                                        |
| 140      | Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier. | Ditto                                                | Sumo                                           |

## CHAPTER VIII.—OFFENCES

|     |                                                                                                |                             |         |
|-----|------------------------------------------------------------------------------------------------|-----------------------------|---------|
| 143 | Being member of an unlawful assembly.                                                          | May arrest without warrant. | Sumo    |
| 144 | Joining an unlawful assembly armed with any deadly weapon                                      | Ditto                       | Warrant |
| 145 | Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse. | Ditto                       | Ditto   |
| 147 | Rioting                                                                                        | Ditto                       | Ditto   |

## THE ARMY AND NAVY—(concluded)

| 5                            | 6                                    | 7                                                                                        | ■                                                                                 |
|------------------------------|--------------------------------------|------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| Whether<br>liable or<br>not. | Whether<br>compound-<br>able or not. | Punishment under the<br>Indian Penal Code.                                               | By what Court<br>triable.                                                         |
| liable ...                   | Not com-<br>poundable                | Imprisonment of either<br>description for 6<br>months, or fine, or<br>both               | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class. |
| to ...                       | Ditto                                | Imprisonment of either<br>description for 3<br>months, or fine of 500<br>rupees, or both | Any Magistrate.                                                                   |

## THE PUBLIC TRANQUILLITY.

|           |                       |                                                                            |                 |
|-----------|-----------------------|----------------------------------------------------------------------------|-----------------|
| liable .. | Non-com-<br>poundable | Imprisonment of either<br>description for 6<br>months, or fine, or<br>both | Any Magistrate. |
| Ditto     | Ditto                 | Imprisonment of either<br>description for 3 years,<br>or fine or both.     | Ditto.          |
| Ditto ..  | Ditto .               | Ditto ...                                                                  | Ditto.          |
| Ditto ..  | Ditto ...             | Ditto ...                                                                  | Ditto.          |

## CHAPTER VIII.—OFFENCES AGAINST PUBLIC ORDER.

| SECTION. | OFFENCE.                                                                                                                             | Whether the police may arrest without warrant or not                   | Whether a warrant or summons shall ordinarily issue in the instance         |
|----------|--------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 148      | Rioting, armed with a deadly weapon                                                                                                  | May arrest without warrant.                                            | Warrant.                                                                    |
| 149      | If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence | According as arrest may be made without warrant for the offence or not | According as a warrant or summons may issue in the offence                  |
| 150      | Hiring, engaging or employing persons to take part in an unlawful assembly.                                                          | May arrest without warrant.                                            | According to the offence committed by the person hired, engaged or employed |
| 151      | Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.                     | Ditto                                                                  | Summons                                                                     |
| 152      | Assaulting or obstructing public servant when suppressing riot, &c                                                                   | Ditto                                                                  | Warrant                                                                     |

## PUBLIC TRANQUILLITY—(continued.)

| 6                                                    | 6                                    | 7                                                                                                                       | 8                                                                                          |
|------------------------------------------------------|--------------------------------------|-------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not.                       | Whether<br>compound-<br>able or not. | Punishment under<br>the India Penal<br>Code                                                                             | By what<br>Court<br>triable.                                                               |
| bailable ...                                         | Non-com-<br>poundable.               | Imprisonment of either<br>description for 3 years,<br>or fine, or both                                                  | Court of Session,<br>Presidency<br>Magistrate or<br>Magistrate of<br>the first class.      |
| According as<br>the offence<br>is bailable<br>or not | Ditto ..                             | The same as for the of-<br>fence.                                                                                       | The Court by<br>which the of-<br>fence is triable.                                         |
| Ditto ..                                             | Not com-<br>poundable                | The same as for a<br>member of such as-<br>sembly and for any<br>offence committed<br>by any member of<br>such assembly | Ditto.                                                                                     |
| bailable                                             | Ditto                                | Imprisonment of either<br>description for 6<br>months, or fine, or<br>both                                              | Any Magis-<br>trate.                                                                       |
| Ditto ...                                            | Ditto .                              | Imprisonment of either<br>description for 3 years,<br>or fine, or both.                                                 | Court of Ses-<br>sion, Presi-<br>dency M-<br>agistrate or<br>Magistrate of<br>the first cl |



## CHAPTER VIII.—OFFENCES AG

| 1        | 2                                                                                                          | 3                                                     | 4                                                            |
|----------|------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|--------------------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                   | Whether the police may arrest without warrant or not. | Whether warrant: summons shall ordinarily be in the instance |
| 153      | Wantonly giving provocation with intent to cause riot if rioting be committed.                             | May arrest without warrant                            | Warrant.                                                     |
|          | If not committed ... ..                                                                                    | Ditto .                                               | Summons.                                                     |
| 153A     | Promoting enmity between classes .                                                                         | Shall not arrest without warrant                      | Warrant.                                                     |
| 154      | Owner or occupier of land not giving information of riot, &c.                                              | Ditto .                                               | Summons                                                      |
| 155      | Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.   | Ditto ..                                              | Ditto . 1                                                    |
| 156      | Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it. | Ditto ...                                             | Ditto . 6                                                    |

## PUBLIC TRANQUILLITY—(concluded.)

| 5                              | 6                                    | 7                                                                          | 8                                                                               |
|--------------------------------|--------------------------------------|----------------------------------------------------------------------------|---------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not. | Whether<br>compound-<br>able or not. | Punishment under<br>the Indian Penal<br>Code.                              | By what<br>Court<br>triable.                                                    |
| Bailable ...                   | Not com-<br>poundable.               | Imprisonment of either<br>description for 1<br>year, or fine, or both.     | Any Magis-<br>trate.                                                            |
| Ditto ...                      | Ditto .                              | Imprisonment of either<br>description for 6<br>months, or fine, or<br>both | Ditto                                                                           |
| Not bailable                   | Ditto .                              | Imprisonment of either<br>description for 2<br>years or fine, or<br>both   | Presidency Ma-<br>gistrate, or<br>Magistrate of<br>the first class              |
| Bailable ...                   | Ditto ..                             | Fine of 1,000 rupees ..                                                    | Presidency Ma-<br>gistrate, or<br>Magistrate of<br>the first or<br>second class |
| Ditto ...                      | Ditto .                              | Fine .. ...                                                                | Ditto.                                                                          |
| Ditto ...                      | Ditto ...                            | Ditto ...                                                                  | Ditto.                                                                          |

## SCH. II.—STATEMENT OF OFFENCES

## CHAPTER VIII.—OFFENCES AGAINST THE PERSON

| CHAPTER                                                    | 1                                                    | 3                                                    | 4                                                                         |
|------------------------------------------------------------|------------------------------------------------------|------------------------------------------------------|---------------------------------------------------------------------------|
| 2                                                          | Whether the police may arrest without warrant or not | Whether the police may arrest without warrant or not | Whether a warrant or summons shall or may be issued in the first instance |
| OFFENCE                                                    |                                                      |                                                      |                                                                           |
| Persons hired for an unlawful assembly.                    | May be arrested without warrant.                     | May arrest without warrant                           | Warrant.                                                                  |
| Persons hired to take part in an unlawful assembly or riot | Ditto ...                                            | Ditto ..                                             | Summons.                                                                  |
| To go armed ...                                            | Ditto ..                                             | Shall not arrest without warrant                     | Warrant                                                                   |
| Committing affray ...                                      | Shall not arrest without warrant                     | Sum.                                                 | Summons                                                                   |

## CHAPTER IX.—OFFENCES AGAINST PROPERTY

|                                                                                                                                    |                                  |         |
|------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|---------|
| Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act. | Shall not arrest without warrant | Summons |
|------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|---------|

AC TRANQUILITY—(concluded.)

| 6                                   | 7                                                                              | 8                                                                |
|-------------------------------------|--------------------------------------------------------------------------------|------------------------------------------------------------------|
| Whether either compoundable or not. | Punishment under the Indian Penal Code.                                        | By what Court triable                                            |
| Not compoundable                    | Imprisonment of either description for 6 months, or fine, or both              | Presidency Magistrate or Magistrate of the first or second class |
| Ditto                               | Ditto                                                                          | Ditto.                                                           |
| Ditto                               | Imprisonment of either description for 2 years, or fine, or both.              | Ditto                                                            |
| Ditto                               | Imprisonment of either description for 1 month, or fine of 100 rupees, or both | Any Magistrate                                                   |

TO THE PUBLIC SERVANTS.

|                  |                                                                   |                                                                          |
|------------------|-------------------------------------------------------------------|--------------------------------------------------------------------------|
| Not compoundable | Imprisonment of either description for 3 years, or fine, or both. | Court of Session, Presidency Magistrate or Magistrate of the first class |
|------------------|-------------------------------------------------------------------|--------------------------------------------------------------------------|

## CHAPTER IX.—OFFENCES BY OR BE

| 1        | 2                                                                                                                                                           | 3                                                    | 4                                                                 |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|-------------------------------------------------------------------|
| 244 FIVE | OFFENCE                                                                                                                                                     | Whether the police may arrest without warrant or not | Whether warrant summons shall ordinarily be in the first instance |
|          |                                                                                                                                                             |                                                      |                                                                   |
| 162      | Taking a gratification in order by corrupt or illegal means to influence a public servant.                                                                  | Shall not arrest without warrant                     | Summons                                                           |
| 163      | Taking a gratification for the exercise of personal influence with a public servant                                                                         | Ditto                                                | Ditto                                                             |
| 164      | Abuse of power by public servant of the offences defined in the last two preceding clauses with reference to himself                                        | Ditto                                                | Ditto                                                             |
| 165      | Public servant obtaining any valuable thing without consideration, from a person concerned in any proceeding or business transacted by such public servant. | Ditto                                                | Ditto                                                             |
| 166      | Public servant disobeying a direction of the law with intent to cause injury to any person.                                                                 | Ditto                                                | Ditto                                                             |

## TO PUBLIC SERVANTS—(continued).

| 5                            | 6                                   | 7                                                                      | 8                                                                                                          |
|------------------------------|-------------------------------------|------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|
| Whether<br>ailable or<br>not | Whether<br>compound-<br>able or not | Punishment under the<br>Indian Penal Code.                             | By what Court<br>triable                                                                                   |
| ailable .                    | Not com-<br>poundable               | . . . . .                                                              | . . . . .                                                                                                  |
| Ditto                        | Ditto                               | Simple imprisonment for<br>1 year, or fine or both                     | gistrate of the<br>first class<br><br>Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first class. |
| Ditto                        | Ditto                               | Imprisonment of either<br>description for 3 years,<br>or fine, or both | Court of Session<br>Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first class                    |
| Ditto                        | Ditto                               | Simple imprisonment for<br>2 years, or fine, or both                   | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class.                          |
| Ditto                        | Ditto                               | Simple imprisonment for<br>1 year, or fine, or both                    | Ditto                                                                                                      |

## CHAPTER VIII.—OFFENCES BY OR APL.

| 1       | 2                                                                             | 3                                                    | 4                                                             |
|---------|-------------------------------------------------------------------------------|------------------------------------------------------|---------------------------------------------------------------|
| SECTION | OFFENCE                                                                       | Whether the police may arrest without warrant or not | Whether warrant or summons shall ordinarily issue in the case |
| 167     | Public servant framing an incorrect document with intent to cause injury      | Shall not arrest without warrant                     | Summons                                                       |
| 168     | Public servant unlawfully engaging in trade                                   | Ditto ..                                             | Ditto "                                                       |
| 169     | Public servant unlawfully buying or bidding for property.                     | Ditto ..                                             | Ditto "                                                       |
| 170     | Personating a public servant ...                                              | May arrest without warrant.                          | Warrant -                                                     |
| 171     | Wearing garb or carrying token used by public servant with fraudulent intent. | Ditto ...                                            | Summons                                                       |

## G TO PUBLIC SERVANTS—(continued).

| 5                            | 6                                    | 7                                                                                                       | 8                                                                                        |
|------------------------------|--------------------------------------|---------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|
| Whether<br>ailable or<br>not | Whether<br>compound-<br>able or not. | Punishment under the<br>Indian Penal Code.                                                              | By what Court.<br>triable                                                                |
| ailable ...                  | Not com-<br>poundable                | Imprisonment of either<br>description for 3 years,<br>or fine, or both.                                 | Court of Session,<br>Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first class |
| Ditto ..                     | Ditto                                | Simple imprisonment for<br>1 year, or fine, or both                                                     | Presidency Mag-<br>istrate or Magis-<br>trate of the first<br>class                      |
| Ditto .                      | Ditto                                | Simple imprisonment for<br>2 years, or fine or both,<br>and confiscation of pro-<br>perty, if purchased | Ditto.                                                                                   |
| Ditto ...                    | Ditto                                | Imprisonment of either<br>description for 3 years<br>or fine, or both.                                  | Any Magistrate.                                                                          |
| Ditto .                      | Ditto                                | Imprisonment of either<br>description for 3 months<br>or fine of 200 rupees, or<br>both.                | Ditto.                                                                                   |



## CHAPTER X.—CONTAMPTS OF THE LAW

| 1        | 2                                                                                                                                           | 3                                                    | 4                                                    |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|------------------------------------------------------|
| SECTION. | OFFENCE                                                                                                                                     | Whether the police may arrest without warrant or not | Whether warrant may be issued by ordinary magistrate |
| 172      | Abstaining to avoid service of summons or other proceedings from a public servant                                                           | Shall not arrest without warrant                     | Summons                                              |
|          | If summons or notice require attendance in person, &c, in a Court of Justice                                                                | Ditto                                                | Ditto                                                |
| 173      | Preventing the service or the affixing of any summons or notice or the removal of it when it has been affixed, or preventing a proclamation | Ditto                                                | Ditto                                                |
|          | If summons, &c, require attendance in person, &c, in a Court of Justice                                                                     | Ditto                                                | Ditto                                                |
| 174      | Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority                      | Ditto                                                | Ditto                                                |
|          | If the order require personal attendance, &c, in a Court of Justice                                                                         | Ditto                                                | Ditto                                                |

## AUTHORITY OF PUBLIC SERVANTS

| ■                              | 6                                    | 7                                                                           | ■                                                                                |
|--------------------------------|--------------------------------------|-----------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not. | Whether<br>compound-<br>able or not. | Punishment under the<br>Indian Penal Code                                   | By what Court<br>triable.                                                        |
| Bailable .                     | Not com-<br>poundable                | Simple imprisonment<br>for 1 month, or fine of<br>500 rupees, or both.      | Any Magistrate .                                                                 |
| Ditto .                        | Ditto                                | Simple imprisonment<br>for 6 months, or fine<br>of 1,000 rupees, or<br>both | Ditto                                                                            |
| Ditto .                        | Ditto                                | Simple imprisonment<br>for 1 month, or fine<br>of 500 rupees, or both       | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class |
| Ditto                          | Ditto                                | Simple imprisonment<br>for 6 months, or fine<br>of 1,000 rupees, or<br>both | Ditto                                                                            |
| Ditto .                        | Ditto                                | Simple imprisonment<br>for 1 month, or fine<br>of 500 rupees, or both       | Any Magistrate.                                                                  |
| Ditto .                        | Ditto ..                             | Simple imprisonment<br>for 6 months, or fine of<br>1,000 rupees, or both    | Ditto.                                                                           |

## CHAPTER X.—CONTENTS OF THE LAW

| 1           | 2                                                                                                                                      | 3                                                     | 4                                                                      |
|-------------|----------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|------------------------------------------------------------------------|
| Section     | OFFENCE.                                                                                                                               | Whether the police may arrest without warrant or not. | Whether a warrant or summons shall ordinarily be sworn in the instance |
| 175-<br>aid | Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.        | Shall not arrest without warrant                      | Summons                                                                |
|             | If the document is required to be produced in or delivered to a Court of Justice.                                                      | Ditto                                                 | Ditto                                                                  |
| 176         | Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information. | Ditto                                                 | Ditto                                                                  |
|             | If the notice or information required respects the commission of an offence, &c.                                                       | Ditto                                                 | Ditto                                                                  |
| 177         | Knowingly furnishing false information to a public servant.                                                                            | Ditto                                                 | Ditto                                                                  |

## CRIMINALITY OF PUBLIC SERVANTS—(continued).

| ■                               | 6                              | 7                                                                   | 8                                                                                                                                                                                           |
|---------------------------------|--------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Whether<br>compoundable or not. | Whether<br>compoundable or not | Punishment under the<br>Indian Penal Code.                          | By what Court<br>triable                                                                                                                                                                    |
| Compoundable . .                | Not compoundable.              | Simple imprisonment for 1 month, or fine of 500 rupees, or both     | The Court in which the offence is committed, subject to the provisions of Chapter XXXV. or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class |
| Ditto .                         | Ditto                          | Simple imprisonment for 6 months, or fine of 1,000 rupees, or both. | Ditto                                                                                                                                                                                       |
| Ditto                           | Ditto                          | Simple imprisonment for 1 month, or fine of 500 rupees or both.     | Presidency Magistrate or Magistrate of the first or second class                                                                                                                            |
| Ditto                           | Ditto                          | Simple imprisonment for 6 months, or fine of 1,000 rupees, or both  | Ditto.                                                                                                                                                                                      |
| Ditto . .                       | Ditto . . .                    | Ditto . . .                                                         | Ditto.                                                                                                                                                                                      |

| SECTION | 1                                                                                     | 2                                                    | 3                                                    |                                                      |
|---------|---------------------------------------------------------------------------------------|------------------------------------------------------|------------------------------------------------------|------------------------------------------------------|
|         | OFFENCE.                                                                              | Whether the police may arrest without warrant or not | Whether the police may arrest without warrant or not | Whether the police may arrest without warrant or not |
|         | If the information required respects the commission of an offence, &c.                | Shall not arrest without warrant.                    | Shall not arrest without warrant.                    | Shall not arrest without warrant.                    |
| 178     | Refusing oath when duly required to take oath by a public servant                     | Ditto                                                | Ditto                                                | Ditto                                                |
| 179     | Being legally bound to state truth, and refusing to answer questions.                 | Ditto                                                | Ditto                                                | Ditto                                                |
| 180     | Refusing to sign a statement made to a public servant when legally required to do so. | Ditto                                                | Ditto                                                | Ditto                                                |

## AUTHORITY OF PUBLIC SERVANTS—(continued).

| 5                             | 6                                   | 7                                                                         | 8                                                                                                                                                                                                                                              |
|-------------------------------|-------------------------------------|---------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Whether<br>ailable or<br>not. | Whether<br>compound-<br>able or not | Punishment under the<br>Indian Penal Code.                                | By what Court<br>triable.                                                                                                                                                                                                                      |
| ailable ...                   | Not com-<br>poundable               | Imprisonment of either<br>description for 2 years,<br>or fine, or both.   | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class.                                                                                                                                                              |
| ditto                         | Ditto                               | Simple imprisonment<br>for 6 months, or fine of<br>1,000 rupees, or both. | The Court in<br>which the of-<br>fence is com-<br>mitted, sub-<br>ject to the<br>provisions of<br>Chapter<br>XXXV; or, if<br>not committ-<br>ed in a Court,<br>a Presidency<br>Magistrate<br>or Magistrate<br>of the first or<br>second class. |
| Ditto                         | Ditto ...                           | Ditto ...                                                                 | Ditto.                                                                                                                                                                                                                                         |
| Ditto                         | Ditto ...                           | Simple imprisonment<br>for 3 months, or fine<br>of 500 rupees, or both.   | Ditto.                                                                                                                                                                                                                                         |

## CHAPTER X.—CONTEMPTS OF THE LAW

| 1        | 2                                                                                                                                                                                 | 3                                                    | 4                                                                           |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|-----------------------------------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                                                                                          | Whether the police may arrest without warrant or not | Whether a warrant or a summons shall ordinarily issue in the first instance |
| 181      | Knowingly stating to a public servant on oath as true that which is false.                                                                                                        | Shall not arrest without warrant                     | Warrant—                                                                    |
| 182      | Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person                                               | Ditto ..                                             | Summons—                                                                    |
| 183      | Resistance to the taking of property by the lawful authority of a public servant                                                                                                  | Ditto ..                                             | Ditto                                                                       |
| 184      | Obstructing sale of property offered for sale by authority of a public servant.                                                                                                   | Ditto ..                                             | Ditto                                                                       |
| 85       | Bidding by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby | Ditto ..                                             | Ditto                                                                       |

## AUTHORITY OF PUBLIC SERVANTS—(continued).

| 5                              | 6                                    | 7                                                                                          | 8                                                                                    |
|--------------------------------|--------------------------------------|--------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not, | Whether<br>compound-<br>able or not. | Punishment under the<br>Indian Penal Code                                                  | By what Court<br>triable                                                             |
| Bailable .                     | Not com-<br>poundable                | Imprisonment of either<br>description for 3 years,<br>and fine                             | Court of Session,<br>Presidency<br>Magistrate or<br>Magistrate of<br>the first class |
| Ditto ..                       | Ditto                                | Imprisonment of either<br>description for 6<br>months, or fine of<br>1,000 rupees, or both | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class     |
| Ditto ..                       | Ditto                                | Ditto . . .                                                                                | Ditto                                                                                |
| Ditto                          | Ditto                                | Imprisonment of either<br>description for 1<br>month, or fine of 500<br>rupees, or both    | Ditto.                                                                               |
| Ditto                          | Ditto                                | Imprisonment of either<br>description for 1<br>month, or fine of 200<br>rupees, or both.   | Ditto.                                                                               |



SCH. II.—STATEMENT OF OFFENCES.

CHAPTER X.—CONTEMPTS OF THE LAW

| 1       | 2                                                                                                                                                             | 3                                                     | 4                                                                              |
|---------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|--------------------------------------------------------------------------------|
| SECTION | OFFENCE.                                                                                                                                                      | Whether the police may arrest without warrant or not. | Whether a warrant shall or shall not be issued in the 1 <sup>st</sup> instance |
| 186     | Obstructing public servant in discharge of his public functions                                                                                               | Shall not arrest without warrant.                     | Summarily                                                                      |
| 187     | Omission to assist public servant when bound by law to give such assistance                                                                                   | Ditto                                                 | Ditto                                                                          |
|         | Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c                                       | Ditto                                                 | Ditto                                                                          |
| 188     | Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed. | Ditto                                                 | Ditto                                                                          |
|         | If such disobedience causes danger to human life, health or safety, &c                                                                                        | Ditto                                                 | Ditto                                                                          |
| 189     | Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.                      | Ditto                                                 | Ditto                                                                          |

## AUTHORITY OF PUBLIC SERVANTS—(continued).

| 5                        | 6                            | 7                                                                                   | 8                                                                |
|--------------------------|------------------------------|-------------------------------------------------------------------------------------|------------------------------------------------------------------|
| Whether bailable or not. | Whether compoundable or not. | Punishment under the Indian Penal Code                                              | By what Court triable.                                           |
| Bailable ...             | Not compoundable.            | Imprisonment of either description for 3 months, or fine of 500 rupees, or both     | Presidency Magistrate or Magistrate of the first or second class |
| Ditto ..                 | Ditto                        | Simple imprisonment for 1 month or fine of 200 rupees, or both                      | Ditto. ...                                                       |
| Ditto .                  | Ditto .                      | Simple imprisonment for 6 months, or fine of 500 rupees, or both                    | Ditto ...                                                        |
| Ditto                    | Ditto                        | Simple imprisonment for 1 month, or fine of 200 rupees, or both                     | Ditto                                                            |
| Ditto                    | Ditto                        | Imprisonment of either description for 11 months, or fine of 1,000 rupees, or both. | Ditto ...                                                        |
| Ditto                    | Ditto                        | Imprisonment of either description for 2 years, or fine, or both.                   | Ditto ...                                                        |

CHAPTER X.—CONTEMPTS OF THE LAW.

| 1        | 2                                                                                                          | 3                                                     | 4                                                         |
|----------|------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|-----------------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                   | Whether the police may arrest without warrant or not. | Whether a warrant shall ordinarily be issued in the case. |
| 190      | Threatening any person to induce him to refrain from making a legal application for protection from injury | Shall not arrest without warrant                      | Summons                                                   |

CHAPTER XI.—FALSE EVIDENCE.

|     |                                                                                                            |                                  |         |
|-----|------------------------------------------------------------------------------------------------------------|----------------------------------|---------|
| 103 | Giving or fabricating false evidence in a judicial proceeding                                              | Shall not arrest without warrant | Warrant |
|     | Giving or fabricating false evidence in any other case                                                     | Ditto                            | Ditto   |
| 104 | Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence. | Ditto                            | Ditto   |
|     | If innocent person be thereby convicted and executed.                                                      | Ditto                            | Ditto   |

## THORITY OF PUBLIC SERVANTS—(concluded).

| 5                             | 6                                    | 7                                                                     | 8                                                                                |
|-------------------------------|--------------------------------------|-----------------------------------------------------------------------|----------------------------------------------------------------------------------|
| Whether<br>bailable<br>or not | Whether<br>compound-<br>able or not. | Punishment under the<br>Indian Penal Code                             | By what Court<br>triable                                                         |
| bailable . .                  | Not com-<br>poundable                | Imprisonment of either<br>description for 1 year,<br>or fine, or both | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class |

## FENCES AGAINST PUBLIC JUSTICE.

|               |                       |                                                                                   |                                                                                          |
|---------------|-----------------------|-----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|
| bailable .    | Not com-<br>poundable | Imprisonment of either<br>description for 7 years,<br>and fine                    | Court of Session,<br>Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first class |
| Ditto ..      | Ditto                 | Imprisonment of either<br>description for 3 years,<br>and fine                    | Ditto                                                                                    |
| Not bailable. | Ditto                 | Transportation for life<br>or rigorous imprison-<br>ment for 10 years and<br>fine | Court of Session.                                                                        |
| Ditto ..      | Ditto                 | Death or as above                                                                 | Ditto.                                                                                   |

## CHAPTER XI.—FALSE EVIDENCE

| 1        | 2                                                                                                                                               | 3                                                     | 4                                                               |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|-----------------------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                                                        | Whether the police may arrest without warrant or not, | Whether warrant summons shall ordinarily run the first instance |
|          | Using as true any such declaration known to be false                                                                                            | Shall not arrest without warrant.                     | Warrant                                                         |
| 200      | Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence | Ditto ..                                              | Ditto ..                                                        |
| 201      | If punishable with transportation for life or imprisonment for 10 years                                                                         | Ditto .                                               | Ditto ..                                                        |
|          | If punishable with less than 10 years' imprisonment.                                                                                            | Ditto .                                               | Ditto ..                                                        |
| 202      | Intentional omission to give information of an offence by a person legally bound to inform.                                                     | Ditto                                                 | Summons                                                         |

## OFFENCES AGAINST PUBLIC JUSTICE—(continued).

| 5                                  | 6                                    | 7                                                                                                                                   | 8                                                                                                                  |
|------------------------------------|--------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| Whether<br>compoundable or<br>not. | Whether<br>compound-<br>able or not. | Punishment under the<br>Indian Penal Code.                                                                                          | By what Court<br>triable.                                                                                          |
| Not compoundable.                  | Not compoundable                     | The same as for giving<br>false evidence.                                                                                           | Court of Session,<br>Presidency Ma-<br>gistrate, or Ma-<br>gistrate of the<br>first class                          |
| Ditto                              | Ditto                                | Imprisonment of either<br>description for 7 years<br>and fine                                                                       | Court of Session.                                                                                                  |
| Ditto                              | Ditto                                | Imprisonment of either<br>description for 3 years,<br>and fine                                                                      | Court of Session,<br>Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first class.                          |
| Ditto                              | Ditto                                | Imprisonment for a<br>quarter of the longest<br>term, and of the de-<br>scription provided for<br>the offence, or fine, or<br>both. | Presidency Ma-<br>gistrate or Ma-<br>gistrate of first<br>class, or Court<br>by which the of-<br>fence is triable. |
| Ditto                              | Ditto                                | Imprisonment of either<br>description for 6 months,<br>or fine, or both.                                                            | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or<br>class                                          |

## CHAPTER XI.—FALSE EVIDENCE.

| SECTION. | 1 | 2                                                                                                                                               | 3                                                     | 4                                                                |
|----------|---|-------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|------------------------------------------------------------------|
|          |   | OFFENCE.                                                                                                                                        | Whether the police may arrest without warrant or not. | Whether a warrant or summons shall or shall not be first issued. |
|          |   | Using as true any such declaration known to be false                                                                                            | Shall not arrest without warrant                      | Warrant.                                                         |
| 200      |   | Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence | Ditto                                                 | Ditto                                                            |
| 201      |   | If punishable with transportation for life or imprisonment for 10 years                                                                         | Ditto                                                 | Ditto                                                            |
|          |   | If punishable with less than 10 years' imprisonment.                                                                                            | Ditto                                                 | Ditto                                                            |
| 202      |   | Intentional omission to give information of an offence by a person legally bound to inform.                                                     | Ditto                                                 | Summons                                                          |

## OFFENCES AGAINST PUBLIC JUSTICE—(continued).

| 5                                  | 6                                   | 7                                                                       | 8                                                                                        |
|------------------------------------|-------------------------------------|-------------------------------------------------------------------------|------------------------------------------------------------------------------------------|
| Whether<br>compoundable or<br>not. | Whether<br>compound-<br>able or not | Punishment under the<br>Indian Penal Code.                              | By what Court<br>triable.                                                                |
| Not compoundable ..                | Not com-<br>poundable               | Imprisonment of either<br>description for 2 years,<br>or fine, or both  | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class         |
| Ditto .                            | Ditto                               | Ditto                                                                   | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first class                      |
| Ditto ..                           | Ditto                               | Imprisonment of either<br>description for 3 years,<br>or fine, or both. | Court of Session,<br>Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first class |
| Ditto .                            | Ditto                               | Imprisonment of either<br>description for 2 years,<br>or fine, or both. | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class.        |
| Ditto ..                           | Ditto                               | Ditto                                                                   | Ditto                                                                                    |





## OFFENCES AGAINST PUBLIC JUSTICE—(continued)

|                              | 6                           | 7                                                                | 8                                                                          |
|------------------------------|-----------------------------|------------------------------------------------------------------|----------------------------------------------------------------------------|
| Whether compoundable or not. | Whether compoundable or not | Punishment under the Indian Penal Code.                          | By what Court triable.                                                     |
| Compoundable ...             | Not compoundable            | Imprisonment of either description for 2 years, or fine, or both | Presidency Magistrate or Magistrate of the first class                     |
| Do ..                        | Ditto                       | Imprisonment of either description for 2 years and fine          | Ditto.                                                                     |
| Do ..                        | Ditto                       | Imprisonment of either description for 2 years, or fine, or both | Ditto.                                                                     |
| Do ..                        | Ditto                       | Ditto                                                            | Ditto.                                                                     |
| Do                           | Ditto                       | Imprisonment of either description for 7 years and fine          | Court of Session, Presidency Magistrate, or Magistrate of the first class. |
| Do                           | Ditto                       | Ditto                                                            | Court of Session.                                                          |
| Do                           | Ditto                       | Imprisonment of either description for 3 years and fine          | Court of Session, Presidency Magistrate or Magistrate of the first class.  |

## CHAPTER XL.—FALSE EVIDE.

| 1       | 2                                                                                  | 3                                                    |                                    |
|---------|------------------------------------------------------------------------------------|------------------------------------------------------|------------------------------------|
| SECTION | OFFENCE                                                                            | Whether the police may arrest without warrant or not | When warrants, or orders, are made |
|         | If punishable with transportation for life, or with imprisonment for 10 years      | May arrest without warrant                           | Warrant                            |
|         | If punishable with imprisonment for 1 year, and not for 10 years                   | Ditto                                                | Ditto                              |
| 213     | Taking gift, &c, to screen an offender from punishment, if the offence be capital. | Shall not arrest without warrant.                    | Ditto                              |
|         | If punishable with transportation for life or with imprisonment for 10 years       | Ditto                                                | Ditto                              |
|         | If with imprisonment for less than 10 years                                        | Ditto                                                | Ditto                              |

## OFFENCES AGAINST PUBLIC JUSTICE—(continued.)

| 5                                     | 6                                    | 7                                                                                                                                   | 8                                                                                                                        |
|---------------------------------------|--------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| Whether<br>punish-<br>able or<br>not. | Whether<br>compound-<br>able or not. | Punishment under<br>the Indian Penal<br>Code                                                                                        | By what<br>Court<br>triable                                                                                              |
| Punish-<br>able ...                   | Not com-<br>poundable.               | Imprisonment of either<br>description for 3 years,<br>and fine.                                                                     | Court of Session,<br>Presidency<br>Magistrate or<br>Magistrate of<br>the first class.                                    |
| ... ..                                | Ditto                                | Imprisonment for a<br>quarter of the longest<br>term, and of the des-<br>cription, provided for<br>the offence, or fine,<br>or both | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first class, or<br>Court by which<br>the offence is<br>triable.  |
| ... ..                                | Ditto                                | Imprisonment of either<br>description for 7<br>years and fine                                                                       | Court of Session.                                                                                                        |
| ... ..                                | Ditto                                | Imprisonment of either<br>description for 3 years<br>and fine.                                                                      | Court of Session,<br>Presidency<br>Magistrate or<br>Magistrate of<br>the first class.                                    |
| ... ..                                | Ditto                                | Imprisonment for a<br>quarter of the longest<br>term, and of the des-<br>cription, provided for<br>the offence, or fine,<br>or both | Presidency Ma-<br>gistrate, or Ma-<br>gistrate of the<br>first class, or<br>Court by which<br>the offence is<br>triable. |

## CHAPTER XI.—FALSE EVIDENCE

| 1        | 2                                                                                                                                            | 3                                                    | 4                                                  |
|----------|----------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|----------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                                                     | Whether the police may arrest without warrant or not | Whether warrant shall or may be issued in the case |
| 214      | Offering gift or restoration of property in consideration of screening offender, if the offence be capital                                   | Shall not arrest without warrant                     | Warrant                                            |
|          | If punishable with transportation for life or with imprisonment for 10 years.                                                                | Ditto                                                | Ditto                                              |
|          | If with imprisonment for less than 10 years.                                                                                                 | Ditto                                                | Ditto                                              |
| 215      | Taking gift to help to recover movable property of which a person has been deprived by an offence, without causing apprehension of offender. | Ditto                                                | Ditto                                              |
| 216      | Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.                      | May arrest without warrant                           | Ditto                                              |

## OFFENCES AGAINST PUBLIC JUSTICE—(continued.)

| 5                                 | 6                                    | 7                                                                                                                                  | 8                                                                                                                      |
|-----------------------------------|--------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|
| Whether<br>compoundable or<br>not | Whether<br>compound-<br>able or not. | Punishment under<br>the Indian Penal<br>Code.                                                                                      | By what<br>Court<br>triable.                                                                                           |
| Compoundable ...                  | Not com-<br>poundable.               | Imprisonment of either<br>description for 7<br>years and fine.                                                                     | Court of Session.                                                                                                      |
| Ditto ...                         | Ditto                                | Imprisonment of either<br>description for 3<br>years and fine                                                                      | Court of Session,<br>Presidency<br>Magistrate, or<br>Magistrate of<br>the first class                                  |
| Ditto ..                          | Ditto                                | Imprisonment for a<br>quarter of the longest<br>term, and of the des-<br>cription provided for<br>the offence, or fine,<br>or both | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first class, or<br>Court by which<br>the offence is<br>triable |
| Ditto .                           | Ditto                                | Imprisonment of either<br>description for 2<br>years, or fine, or<br>both                                                          | Presidency Ma-<br>gistrate or<br>Magistrate of<br>the first class.                                                     |
| Ditto                             | Ditto                                | Imprisonment of either<br>description for 7<br>years and fine.                                                                     | Court of Session,<br>Presidency<br>Magistrate or<br>Magistrate of<br>the first class.                                  |

## CHAPTER XI.—FALSE EVIDENCE

| 1        | 2                                                                                                                              | 3                                                    | 4                                               |
|----------|--------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|-------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                                       | Whether the police may arrest without warrant or not | Whether warrant shall be issued on first arrest |
|          | If punishable with transportation for life or with imprisonment for for 10 years                                               | May arrest without warrant                           | Warrant                                         |
|          | If with imprisonment for 1 year, and not for 10 years.                                                                         | Ditto                                                | Ditto                                           |
| 216A     | Harbouring robbers or dacoits.                                                                                                 | Ditto                                                | Ditto                                           |
| 217      | Public servant disobeying a direction of law with intent to save person from punishment, or property from forfeiture           | Shall not arrest without warrant                     | Summons                                         |
| 218      | Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture. | Ditto                                                | Warrant                                         |

## OFFENCES AGAINST PUBLIC JUSTICE—(continued.)

| 5                                  | 6                                    | 7                                                                                                                                   | 8                                                                                                                      |
|------------------------------------|--------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|
| Whether<br>compoundable or<br>not. | Whether<br>compound-<br>able or not. | Punishment under the<br>Indian Penal Code.                                                                                          | By what Court<br>triable                                                                                               |
| Compoundable . .                   | Not com-<br>poundable.               | Imprisonment of either<br>description for 3<br>years, with or without<br>fine                                                       | Court of Session,<br>Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first class                               |
| Ditto . . .                        | Ditto                                | Imprisonment for a<br>quarter of the longest<br>term, and of the des-<br>cription, provided for<br>the offence, or fine,<br>or both | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first class, or<br>Court by which<br>the offence is<br>triable |
| Ditto                              | Ditto                                | Rigorous imprisonment<br>for 7 years and fine                                                                                       | Court of Session,<br>Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first class                               |
| Ditto                              | Ditto                                | Imprisonment of either<br>description for 2 years<br>or fine, or both                                                               | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class                                       |
| Ditto . .                          | Ditto                                | Imprisonment of either<br>description for 3<br>years, or fine, or both.                                                             | Court of Session.                                                                                                      |



## CHAPTER XI—FALSE EVIDENCE.

| 1        | 2                                                                                                                                                    | 3                                                    | 4                                    |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|--------------------------------------|
| SECTION. | OFFENCE                                                                                                                                              | Whether the police may arrest without warrant or not | What warrant shall name in the inst. |
| 219      | Public servant in a judicial proceeding corruptly making and pronouncing an order, report, verdict or decision which he knows to be contrary to law. | Shall not arrest without warrant.                    | Warrant                              |
| 220      | Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.                                       | Ditto                                                | Ditto                                |
| 221      | Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital                   | Ditto                                                | Ditto                                |
|          | If punishable with transportation for life or imprisonment for 10 years.                                                                             | Ditto                                                | Ditto                                |
|          | If with imprisonment for less than 10 years.                                                                                                         | Ditto                                                | Ditto                                |

## OFFENCES AGAINST PUBLIC JUSTICE—(continued)

| 5                              | 6                                    | 7                                                                             | 8                                                                                     |
|--------------------------------|--------------------------------------|-------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not. | Whether<br>compound-<br>able or not. | Punishment under the<br>Indian Penal Code.                                    | By what Court<br>triable                                                              |
| bailable .                     | Not com-<br>poundable                | Imprisonment of either<br>description for 7<br>years, or fine, or both.       | Court of Session.                                                                     |
| ditto ...                      | Ditto                                | Ditto                                                                         | Ditto.                                                                                |
| ditto ...                      | Ditto ...                            | Imprisonment of either<br>description for 7<br>years, with or without<br>fine | Ditto.                                                                                |
| ditto ...                      | Ditto ..                             | Imprisonment of either<br>description for 3<br>years, with or without<br>fine | Court of Session,<br>Presidency<br>Magistrate or<br>Magistrate of<br>the first class. |
| ditto ...                      | Ditto ...                            | Imprisonment of either<br>description for 2 years,<br>with or without fine    | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class.     |

## CHAPTER XI.—FALSE EVIDENCE ACT

| 1        | 2                                                                                                                                                                  | 3                                                    | 4                                                                               |
|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|---------------------------------------------------------------------------------|
| SECTION. | OFFENCE                                                                                                                                                            | Whether the police may arrest without warrant or not | Whether a warrant or a summons shall ordinarily be issued in the first instance |
| 222      | Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice if under sentence of death | Shall not arrest without warrant.                    | Warrant                                                                         |
|          | If under sentence of transportation or penal servitude for life, or transportation, imprisonment or penal servitude for 10 years or upwards                        | Ditto                                                | Ditto                                                                           |
|          | If under sentence of imprisonment for less than 10 years or lawfully committed to custody.                                                                         | Ditto                                                | Ditto                                                                           |
| 223      | Escape from confinement negligently suffered by a public servant                                                                                                   | Ditto                                                | Summons                                                                         |
| 224      | Resistance or obstruction by a person to his lawful apprehension.                                                                                                  | May arrest without warrant.                          | Warrant                                                                         |

## OFFENCES AGAINST PUBLIC JUSTICE—(continued.)

| 5                              | 6                                    | 7                                                                                                             | 8                                                                                           |
|--------------------------------|--------------------------------------|---------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not. | Whether<br>compound-<br>able or not. | Punishment under the<br>Indian Penal Code                                                                     | By what Court<br>triable                                                                    |
| Not bailable                   | Not com-<br>poundable                | Transportation for life,<br>or imprisonment of<br>either description for<br>14 years, with or<br>without fine | Court of Ses-<br>sion                                                                       |
| Ditto.                         | Ditto                                | Imprisonment of either<br>description for 7<br>years, with or with-<br>out fine                               | Ditto                                                                                       |
| Bailable                       | Ditto                                | Imprisonment of either<br>description for 3 years,<br>or fine, or both                                        | Court of Ses-<br>sion, Presiden-<br>cy Magistrate<br>or Magistrate<br>of the first<br>class |
| Ditto ..                       | Ditto                                | Simple imprisonment<br>for 2 years, or fine, or<br>both.                                                      | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class            |
| Ditto ...                      | Ditto ...                            | Imprisonment of either<br>description for 2<br>years, or fine, or both                                        | Ditto.                                                                                      |

## CHAPTER XL.—FALSE EVIDENCE &amp;c

| 1        | 2                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 3                                                                                               | 4                                                                            |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                                                                                                                                                                                                                                                                                                                                                                | Whether the police may arrest without warrant or not                                            | Whether a warrant or summons shall order to be issued in the case and how    |
| 223      | <p>Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.</p> <p>If charged with an offence punishable with transportation for life, or imprisonment for 10 years</p> <p>If charged with a capital offence ..</p> <p>If the person is sentenced to transportation for life or to transportation, penal servitude or imprisonment for 10 years or upwards</p> <p>If under sentence of death ..</p> | <p>May arrest without warrant.</p> <p>Ditto ..</p> <p>Ditto ..</p> <p>Ditto</p> <p>Ditto ..</p> | <p>Warrant.</p> <p>Ditto ..</p> <p>Ditto ..</p> <p>Ditto</p> <p>Ditto ..</p> |

## OFFENCES AGAINST PUBLIC JUSTICE—(continued.)

| 5                        | 6                           | 7                                                                                      | 8                                                                         |
|--------------------------|-----------------------------|----------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| Whether bailable or not. | Whether compoundable or not | Punishment under the Indian Penal Code                                                 | By what Court triable.                                                    |
| Bailable .               | Not compoundable            | Imprisonment of either description for 2 years, or fine, or both                       | Presidency Magistrate or Magistrate of the first or second class.         |
| Not bailable             | Ditto                       | Imprisonment of either description for 3 years and fine                                | Court of Session, Presidency Magistrate or Magistrate of the first class. |
| Ditto ..                 | Ditto                       | Imprisonment of either description for 7 years and fine                                | Court of Session.                                                         |
| Ditto .                  | Ditto                       | Ditto                                                                                  | Ditto                                                                     |
| Ditto ...                | Ditto ..                    | Transportation for life, or imprisonment of either description for 10 years, and fine. | Ditto.                                                                    |

## CHAPTER XI.—FALSE EVIDENCE.

| 1        | 2                                                                                                                                                                                                                                       | 3                                                    | 4                                                      |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|--------------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                                                                                                                                                | Whether the police may arrest without warrant or not | Where warrant sur-<br>re-<br>ar-<br>rescue in<br>cases |
| 223A     | <p>Omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise provided for—</p> <p>(a) in case of intentional omission or sufferance;</p> <p>(b) in case of negligent omission or sufferance</p> | <p>Shall not arrest without warrant</p> <p>Ditto</p> | <p>Warrant</p> <p>Same</p>                             |
| 225B     | Resistance or obstruction to lawful apprehension, or escape or rescue, in cases not otherwise provided for.                                                                                                                             | May arrest without warrant                           | Warrant.                                               |
| 226      | Unlawful return from transportation                                                                                                                                                                                                     | Ditto                                                | Ditto                                                  |

## OFFENCES AGAINST PUBLIC JUSTICE—(continued).

| 5                              | 6                              | 7                                                                                                           | 8                                                                                     |
|--------------------------------|--------------------------------|-------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| Whether<br>compoundable or not | Whether<br>compoundable or not | Punishment under the<br>Indian Penal Code.                                                                  | By what Court<br>triable                                                              |
| Not compoundable               | Not compoundable               | Imprisonment of either<br>description for 3<br>years, or fine, or both                                      | Court of Session,<br>Presidency<br>Magistrate or<br>Magistrate of<br>the first class. |
| Do                             | Ditto                          | Simple imprisonment<br>for 2 years, or fine, or<br>both.                                                    | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class      |
| Do                             | Ditto                          | Imprisonment of either<br>description for 6<br>months, or fine, or<br>both                                  | Ditto.                                                                                |
| Not compoundable               | Ditto                          | Transportation for life,<br>and fine and rigorous<br>imprisonment for 3<br>years before trans-<br>portation | Court of Session.                                                                     |



## CHAPTER XI.—FALSE EVIDENCE

| 1        | 2                                                                                                    | 3                                                     | 4                                                                   |
|----------|------------------------------------------------------------------------------------------------------|-------------------------------------------------------|---------------------------------------------------------------------|
| SECTION. | OFFENCES.                                                                                            | Whether the police may arrest without warrant or not. | Whether warrant summons shall ordinarily be issued in the instance. |
| 227      | Violation of condition of remission of punishment.                                                   | Shall not arrest without warrant                      | Summons                                                             |
| 228      | Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding | Ditto                                                 | Ditto                                                               |
| 229      | Personation of a juror or assessor.                                                                  | Ditto                                                 | Ditto                                                               |

## CHAPTER XII.—OFFENCES RELATING TO

|     |                                                                               |                             |         |
|-----|-------------------------------------------------------------------------------|-----------------------------|---------|
| 231 | Counterfeiting, or performing any part of the process of counterfeiting, coin | May arrest without warrant. | Warrant |
|-----|-------------------------------------------------------------------------------|-----------------------------|---------|

## OFFENCES AGAINST PUBLIC JUSTICE—(concluded).

| 5                       | 6                           | 7                                                                                              | 8                                                                                      |
|-------------------------|-----------------------------|------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| Whether triable or not. | Whether compoundable or not | Punishment under the Indian Penal Code                                                         | By what Court triable.                                                                 |
| Not triable             | Not compoundable            | Punishment of original sentence, or, if part of the punishment has been undergone, the residue | The Court by which the original offence was triable                                    |
| Triable                 | Ditto                       | Simple imprisonment for 6 months, or fine of 1,000 rupees, or both                             | The Court in which the offence is committed, subject to the provisions of Chapter XXXV |
| Ditto                   | Ditto                       | Imprisonment of either description for 2 years, or fine, or both                               | Presidency Magistrate or Magistrate of the first class.                                |

## N AND GOVERNMENT STAMPS.

|             |                  |                                                         |                   |
|-------------|------------------|---------------------------------------------------------|-------------------|
| Not triable | Not compoundable | Imprisonment of either description for 7 years and fine | Court of Session. |
|-------------|------------------|---------------------------------------------------------|-------------------|

## CHAPTER XII.—OFFENCES RELATIVE

| 1        | 2                                                                                              | 3                                                    | 4                                                  |
|----------|------------------------------------------------------------------------------------------------|------------------------------------------------------|----------------------------------------------------|
| SECTION. | OFFENCE.                                                                                       | Whether the police may arrest without warrant or not | Whether warrant shall be necessary in the instance |
| 232      | Counterfeiting, or performing any part of the process of counterfeiting, the Queen's coin      | May arrest without warrant.                          | Warrant                                            |
| 233      | Making, buying or selling instrument for the purpose of counterfeiting coin.                   | Ditto                                                | Ditto                                              |
| 234      | Making, buying or selling instrument for the purpose of counterfeiting the Queen's coin.       | Ditto                                                | Ditto                                              |
| 235      | Possession of instrument or material for the purpose of using the same for counterfeiting coin | Ditto                                                | Ditto                                              |
|          | If Queen's coin                                                                                | Ditto                                                | Ditto                                              |
| 236      | Abetting in British India the counterfeiting out of British India of coin                      | Ditto                                                | Ditto                                              |

## IN AND GOVERNMENT STAMPS—(continued).

| 5                             | II                                   | 7                                                                                                       | 8                                                                                         |
|-------------------------------|--------------------------------------|---------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not | Whether<br>compound-<br>able or not. | Punishment under the<br>Indian Penal Code                                                               | By what Court<br>triable                                                                  |
| Not bailable.                 | Not com-<br>poundable                | Transportation for life,<br>or imprisonment of<br>either description for<br>10 years and fine           | Court of Session.                                                                         |
| Ditto                         | Ditto . .                            | Imprisonment of either<br>description for 3 years<br>and fine                                           | Court of Session,<br>Presidency Ma-<br>gistrate, or Ma-<br>gistrate of the<br>first class |
| Ditto                         | Ditto . .                            | Imprisonment of either<br>description for 7 years<br>and fine                                           | Court of Session.                                                                         |
| Ditto .                       | Ditto . .                            | Imprisonment of either<br>description for 3 years<br>and fine                                           | Court of Session,<br>Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first class. |
| Ditto ..                      | Ditto                                | Imprisonment of either<br>description for 10<br>years and fine.                                         | Court of Session.                                                                         |
| Ditto ..                      | Ditto .                              | The punishment provid-<br>ed for abetting the<br>counterfeiting of such<br>coin within British<br>India | Ditto.                                                                                    |

## CHAPTER XII.—OFFENCES RELATIVE

| 1        | 2                                                                                                                                         | 3                                                    | 4                                                      |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|--------------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                                                  | Whether the police may arrest without warrant or not | Whether warrant shall ordinarily issue in the instance |
| 237      | Import or export of counterfeit coin, knowing the same to be counterfeit                                                                  | May arrest without warrant                           | Warrant.                                               |
| 238      | Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit.                                                 | Ditto .                                              | Ditto .                                                |
| 239      | Having any counterfeit coin known to be such when it came into possession, and delivering, &c, the same to any person.                    | Ditto ..                                             | Ditto .                                                |
| 240      | The same with respect to the Queen's coin                                                                                                 | Ditto .                                              | Ditto .                                                |
| 241      | Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit | Ditto ..                                             | Ditto .                                                |

IN AND GOVERNMENT STAMPS (*continued.*)

| 6                              | 6                                   | 7                                                                                                                                | 8                                                                                     |
|--------------------------------|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not. | Whether<br>compound-<br>able or not | Punishment under the<br>Indian Penal Code                                                                                        | By what Court<br>triable                                                              |
| Not bailable                   | Not com-<br>poundable               | Imprisonment of either<br>description for 3 years<br>and fine                                                                    | Court of Session,<br>Presidency<br>Magistrate or<br>Magistrate of<br>the first class  |
| Ditto                          | Ditto                               | Transportation for life,<br>or imprisonment of<br>either description for<br>10 years and fine                                    | Court of Session                                                                      |
| Ditto                          | Ditto                               | Imprisonment of either<br>description for 5 years<br>and fine                                                                    | Court of Session,<br>Presidency<br>Magistrate or<br>Magistrate of<br>the first class. |
| Ditto                          | Ditto                               | Imprisonment of either<br>description for 10<br>years and fine                                                                   | Ditto                                                                                 |
| Ditto                          | Ditto                               | Imprisonment of either<br>description for 2<br>years, or fine of ten<br>times the value of the<br>coin counterfeited, or<br>both | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class.     |

## CHAPTER XII.—OFFENCES RELATIVE

| 1        | 2                                                                                                         | 3                                                    | 4                                                      |
|----------|-----------------------------------------------------------------------------------------------------------|------------------------------------------------------|--------------------------------------------------------|
| SECTION. | OFFENCE                                                                                                   | Whether the police may arrest without warrant or not | Whether warrant shall or may be issued in the instance |
| 242      | Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof | May arrest without warrant                           | Warrant                                                |
| 243      | Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.    | Ditto                                                | Ditto                                                  |
| 244      | Person employed in a Mint causing coin to be of a different weight or composition from that fixed by law. | Ditto                                                | Ditto                                                  |
| 245      | Unlawfully taking from a Mint any coining instrument                                                      | Ditto                                                | Ditto                                                  |
| 246      | Fraudulently diminishing the weight or altering the composition of any coin                               | Ditto                                                | Ditto                                                  |
| 247      | Fraudulently diminishing the weight or altering the composition of the Queen's coin.                      | Ditto                                                | Ditto                                                  |

IN AND GOVERNMENT STAMPS (*continued.*)

| 5                         | 6                            | 7                                                        | 8                                                                        |
|---------------------------|------------------------------|----------------------------------------------------------|--------------------------------------------------------------------------|
| Whether available or not. | Whether compoundable or not. | Punishment under the Indian Penal Code.                  | By what Court triable.                                                   |
| Not available             | Not compoundable.            | Imprisonment of either description for 3 years and fine. | Court of Session, Presidency Magistrate or Magistrate of the first class |
| Ditto                     | Ditto                        | Imprisonment of either description for 7 years and fine  | Ditto                                                                    |
| Ditto                     | Ditto                        | Ditto                                                    | Court of Session.                                                        |
| Ditto                     | Ditto                        | Ditto                                                    | Ditto                                                                    |
| Ditto                     | Ditto                        | Imprisonment of either description for 3 years and fine  | Court of Session, Presidency Magistrate or Magistrate of the first class |
| Ditto                     | Ditto                        | Imprisonment of either description for 7 years and fine  | Ditto                                                                    |



## CHAPTER XII.—OFFENCES RELAT.

| 1        | 2                                                                                                            | 3                                                    |                                              |
|----------|--------------------------------------------------------------------------------------------------------------|------------------------------------------------------|----------------------------------------------|
| Section. | OFFENCE                                                                                                      | Whether the police may arrest without warrant or not | Whether warrant shall only be in the instant |
| 248      | Altering appearance of any coin with intent that it shall pass as a coin of a different description          | May arrest without warrant                           | Warrant                                      |
| 249      | Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description. | Ditto                                                | Ditto                                        |
| 250      | Delivery to another of coin possessed with the knowledge that it is altered                                  | Ditto                                                | Ditto                                        |
| 251      | Delivery of Queen's coin possessed with the knowledge that it is altered                                     | Ditto                                                | Ditto                                        |
| 252      | Possession of altered coin by a person who knew it to be altered when he became possessed thereof.           | Ditto                                                | Ditto                                        |
| 253      | Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof            | Ditto                                                | Ditto                                        |

IN AND GOVERNMENT STAMPS (*continued.*)

| 5                              | 6                                   | 7                                                              | 8                                                                                    |
|--------------------------------|-------------------------------------|----------------------------------------------------------------|--------------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not. | Whether<br>compound-<br>able or not | Punishment under the<br>Indian Penal Code                      | By what Court<br>triable                                                             |
| Not bailable                   | Not com-<br>poundable               | Imprisonment of either<br>description for 3 years<br>and fine  | Court of Session,<br>Presidency<br>Magistrate or<br>Magistrate of<br>the first class |
| Ditto ..                       | Ditto                               | Imprisonment of either<br>description for 7 years<br>and fine  | Ditto                                                                                |
| Ditto .                        | Ditto                               | Imprisonment of either<br>description for 5 years<br>and fine  | Ditto.                                                                               |
| Ditto                          | Ditto                               | Imprisonment of either<br>description for 10<br>years and fine | Ditto                                                                                |
| Ditto                          | Ditto                               | Imprisonment of either<br>description for 3 years<br>and fine  | Ditto                                                                                |
| Ditto ..                       | Ditto .                             | Imprisonment of either<br>description for 5 years<br>and fine  | Ditto                                                                                |

## CHAPTER XII.—OFFENCES RELAT

| 1        | 2                                                                                                             | 3                                                     | 4                                                               |
|----------|---------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|-----------------------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                      | Whether the police may arrest without warrant or not, | Whether warrant shall or shall not be issued by the magistrate. |
| 254      | Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be altered. | May arrest without warrant.                           | Warrant                                                         |
| 255      | Counterfeiting a Government stamp,                                                                            | Ditto ..                                              | Ditto                                                           |
| 256      | Having possession of an instrument or material for the purpose of counterfeiting a Government stamp           | Ditto                                                 | Ditto                                                           |
| 257      | Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.                    | Ditto                                                 | Ditto                                                           |
| 258      | Sale of counterfeit Government stamp                                                                          | Ditto                                                 | Ditto                                                           |

## CHAPTER XIII.—OFFENCES RELAT

|     |                                                      |                            |         |
|-----|------------------------------------------------------|----------------------------|---------|
| 259 | Having possession of a counterfeit Government stamp. | May arrest without warrant | Warrant |
|-----|------------------------------------------------------|----------------------------|---------|

AND GOVERNMENT STAMPS (*concluded.*)

| 5                              | 6                                   | 7                                                                                                      | 8                                                                                |
|--------------------------------|-------------------------------------|--------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| Whether<br>available or<br>not | Whether<br>compound-<br>able or not | Punishment under the<br>Indian Penal Code                                                              | By what Court<br>triable                                                         |
| Available                      | Not com-<br>poundable.              | Imprisonment of either<br>description for 2<br>years, or fine of ten<br>times the value of the<br>corn | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class |
| Available                      | Ditto                               | Transportation for life<br>or imprisonment of<br>either description for<br>10 years and fine           | Court of Session                                                                 |
| Ditto                          | Ditto                               | Imprisonment of either<br>description for 7 years<br>and fine                                          | Ditto                                                                            |
| Ditto                          | Ditto                               | Ditto                                                                                                  | Ditto                                                                            |
| Ditto                          | Ditto                               | Ditto                                                                                                  | Ditto.                                                                           |

## WEIGHTS AND MEASURES.

|           |                       |                                                                |                                                                                       |
|-----------|-----------------------|----------------------------------------------------------------|---------------------------------------------------------------------------------------|
| Available | Not com-<br>poundable | Imprisonment of either<br>description for 7 years<br>and fine. | Court of Session,<br>Presidency<br>Magistrate or<br>Magistrate of<br>the first class. |
|-----------|-----------------------|----------------------------------------------------------------|---------------------------------------------------------------------------------------|

## CHAPTER XIII.—OFFENCES RELAT

| SECTION. | 1 | 2                                                                                                                                                          | 3                                                     | 4                                                         |
|----------|---|------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|-----------------------------------------------------------|
|          |   | OFFENCE                                                                                                                                                    | Whether the police may arrest without warrant or not. | Whether a warrant shall issue in the case in that statute |
| 260      |   | Using as genuine a Government stamp known to be counterfeit                                                                                                | May arrest without warrant                            | Warrant                                                   |
| 261      |   | Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause loss to Government. | Ditto                                                 | Ditto                                                     |
| 262      |   | Using a Government stamp known to have been before used                                                                                                    | Ditto                                                 | Ditto                                                     |
| 263      |   | Erasure of mark denoting that stamp has been used.                                                                                                         | Ditto                                                 | Ditto                                                     |
| 263A     |   | Fictitious stamps                                                                                                                                          | Ditto                                                 | Ditto                                                     |

## WEIGHTS AND MEASURES.—(continued).

| 5                                 | 6                              | 7                                                                | 8                                                                         |
|-----------------------------------|--------------------------------|------------------------------------------------------------------|---------------------------------------------------------------------------|
| Whether<br>compoundable or<br>not | Whether<br>compoundable or not | Punishment under the<br>Indian Penal Code                        | By what Court<br>triable.                                                 |
| Not compoundable                  | Not compoundable               |                                                                  | Magistrate of the first class                                             |
| Ditto                             | Ditto                          | Imprisonment of either description for 3 years, or fine, or both | Ditto                                                                     |
| Ditto                             | Ditto                          | Imprisonment of either description for 2 years, or fine, or both | Presidency Magistrate, or Magistrate of the first or second class         |
| Ditto                             | Ditto                          | Imprisonment of either description for 1 year, or fine, or both  | Court of Session, Presidency Magistrate or Magistrate of the first class. |
| Ditto                             | Ditto                          | Fine of 200 rupees                                               | Presidency Magistrate, or Magistrate of the first class                   |

## CHAPTER XIII.—OFFENCES RELAT

| 1        | 2                                                                    | 3                                                     | 4                                                        |
|----------|----------------------------------------------------------------------|-------------------------------------------------------|----------------------------------------------------------|
| SECTION. | OFFENCE.                                                             | Whether the police may arrest without warrant or not. | Whether a warrant shall be issued in the first instance. |
| 264      | Fraudulent use of false instrument for weighing.                     | Shall not arrest without warrant                      | Summ.                                                    |
| 265      | Fraudulent use of false weight or measure.                           | Ditto                                                 | Ditto                                                    |
| 266      | Being in possession of false weights or measures for fraudulent use. | Ditto                                                 | Ditto                                                    |
| 267      | Making or selling false weights or measures for fraudulent use.      | Ditto                                                 | Ditto                                                    |

## CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC

|     |                                                                                                   |                            |       |
|-----|---------------------------------------------------------------------------------------------------|----------------------------|-------|
| 269 | Negligently doing any act known to be likely to spread infection of any disease dangerous to life | May arrest without warrant | Summ. |
| 270 | Malignantly doing any act known to be likely to spread infection of any disease dangerous to life | Ditto                      | Ditto |

## WEIGHTS AND MEASURES.—(concluded).

| 5                             | 6                                    | 7                                                                      | 8                                                                                  |
|-------------------------------|--------------------------------------|------------------------------------------------------------------------|------------------------------------------------------------------------------------|
| Whether<br>ailable or<br>not. | Whether<br>compound-<br>able or not. | Punishment under<br>the Indian Penal<br>Code.                          | By what<br>Court<br>triable.                                                       |
| ailable ...                   | Not com-<br>poundable.               | Imprisonment of either<br>description for 1<br>year, or fine, or both. | Presidency Ma-<br>gistrate, or Ma-<br>gistrate of the<br>first or second<br>class. |
| Ditto ...                     | Ditto ..                             | Ditto ..                                                               | Ditto.                                                                             |
| Ditto ...                     | Ditto .                              | Ditto .                                                                | Ditto.                                                                             |
| Ditto .                       | Ditto ..                             | Ditto .                                                                | Ditto                                                                              |

## SAFETY, CONVENIENCE, DECENCY AND MORALS.

|           |                       |                                                                            |                                                                                   |
|-----------|-----------------------|----------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| ailable . | Not com-<br>poundable | Imprisonment of either<br>description for 6<br>months, or fine, or<br>both | Presidency Ma-<br>gistrate, or Ma-<br>gistrate of the<br>first or second<br>class |
| Ditto ... | Ditto . . .           | Imprisonment of either<br>description for 2<br>years, or fine, or both     | Ditto.                                                                            |



## CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH.

| 1        | 2                                                                                                                                               | 3                                                    | 4                                                             |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|---------------------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                                                        | Whether the police may arrest without warrant or not | Whether warrant or summons shall or may be issued in the case |
| 271      | Knowingly disobeying any quarantine rules.                                                                                                      | Shall not arrest without warrant.                    | Summons                                                       |
| 272      | Adulterating food or drink intended for sale so as to make the same noxious                                                                     | Ditto                                                | Ditto                                                         |
| 273      | Selling any food or drink as food and drink knowing the same to be noxious                                                                      | Ditto                                                | Ditto                                                         |
| 274      | Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious. | Ditto                                                | Ditto                                                         |
| 275      | Offering for sale or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation                       | Ditto                                                | Ditto                                                         |
| 276      | Knowingly selling or issuing from                                                                                                               | Ditto                                                | Ditto                                                         |

## ETY, CONVENIENCE, DECENCY AND MORALS—(continued.)

| 5                             | 6                                    | 7                                                                                           | 8                                                                                  |
|-------------------------------|--------------------------------------|---------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|
| Whether<br>ailable or<br>not. | Whether<br>compound-<br>able or not. | Punishment under the<br>Indian Penal Code.                                                  | By what Court<br>triable.                                                          |
| ailable ..                    | Not com-<br>poundable.               | Imprisonment of either<br>description for 3<br>months, or fine, or<br>both.                 | Presidency Ma-<br>gistrate, or Ma-<br>gistrate of the<br>first or second<br>class. |
| Ditto ..                      | Ditto .                              | Imprisonment of either<br>description for 6<br>months, or fine of<br>1,000 rupees, or both. | Ditto.                                                                             |
| Ditto ...                     | Ditto .                              | Ditto ... ..                                                                                | Ditto.                                                                             |
| Ditto ..                      | Ditto .                              | Ditto ... ..                                                                                | Ditto.                                                                             |
| Ditto .                       | Ditto                                | Ditto ... ..                                                                                | Ditto.                                                                             |
| Ditto ...                     | Ditto ..                             | Ditto ... .                                                                                 | Ditto.                                                                             |

## CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH.

| 1        | 2                                                                                                          | 3                                                    | 4                                                            |
|----------|------------------------------------------------------------------------------------------------------------|------------------------------------------------------|--------------------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                   | Whether the police may arrest without warrant or not | Whether warrant shall ordinarily issue in the first instance |
| 277      | Defiling the water of a public spring or reservoir                                                         | May arrest without warrant                           | Summons                                                      |
| 278      | Making atmosphere noxious to health.                                                                       | Shall not arrest without warrant.                    | Ditto                                                        |
| 279      | Driving or riding on a public way so rashly or negligently as to endanger human life, &c ...               | May arrest without warrant.                          | Ditto                                                        |
| 280      | Navigating any vessel so rashly or negligently as to endanger human life, &c.                              | Ditto                                                | Ditto                                                        |
| 281      | Exhibition of a false light, mark or buoy.                                                                 | Ditto                                                | Warrant                                                      |
| 282      | Conveying for hire any person by water in a vessel in such a state, or so loaded, as to endanger his life. | Ditto                                                | Summons                                                      |

TY, CONVENIENCE, DECENCY AND MORALS—(continued.)

| 5                          | 6                                    | 7                                                                                            | 8                                                                                  |
|----------------------------|--------------------------------------|----------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|
| Whether<br>able or<br>not. | Whether<br>compound-<br>able or not. | Punishment under the<br>Indian Penal Code.                                                   | By what Court<br>triable.                                                          |
| able ...                   | Not com-<br>poundable.               | Imprisonment of either<br>description for 3<br>months, or fine of<br>500 rupees, or both.    | Any Magistrate.                                                                    |
| to ...                     | Ditto                                | Fine of 500 rupees                                                                           | Ditto.                                                                             |
| to ...                     | Ditto                                | Imprisonment of either<br>description for 6<br>months, or fine of<br>1,000 rupees, or both.  | Ditto.                                                                             |
| to ...                     | Ditto                                | Ditto                                                                                        | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class.  |
| to ...                     | Ditto                                | Imprisonment of either<br>description for 7<br>years, or fine, or both.                      | Court of Session.                                                                  |
| to ...                     | Ditto                                | Imprisonment of either<br>description for 11<br>months, or fine of<br>1,000 rupees, or both. | Presidency Ma-<br>gistrate, or Ma-<br>gistrate of the<br>first or second<br>class. |

## CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH.

| 1        | 2                                                                              | 3                                                    | 4                                                  |
|----------|--------------------------------------------------------------------------------|------------------------------------------------------|----------------------------------------------------|
| SECTION. | OFFENCE                                                                        | Whether the police may arrest without warrant or not | Whether warrant is required by ordinary law or not |
| 283      | Causing danger, obstruction or injury in any public way or line of navigation. | May arrest without warrant.                          | Same as                                            |
| 284      | Dealing with any poisonous substance so as to endanger human life, &c.         | Shall not arrest without warrant.                    | Ditto                                              |
| 285      | Dealing with fire or any combustible matter so as to endanger human life, &c.  | May arrest without warrant.                          | Ditto                                              |
| 286      | So dealing with any explosive substance.                                       | Ditto                                                | Ditto                                              |
| 287      | So dealing with any machinery.                                                 | Shall not arrest without warrant.                    | Ditto                                              |
| 288      |                                                                                | Ditto                                                | Ditto                                              |

## ETY, CONVENIENCE, DEGENCY AND MORALS—(continued).

| 5                             | 6                                    | 7                                                                                          | 8                                                                                  |
|-------------------------------|--------------------------------------|--------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|
| Whether<br>ailable or<br>not. | Whether<br>compound-<br>able or not. | Punishment under<br>the Indian Penal<br>Code                                               | By what<br>Court<br>triable.                                                       |
| ailable ...                   | Not com-<br>poundable.               | Fine of 200 rupees.                                                                        | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class   |
| Ditto ...                     | Ditto .                              | Imprisonment of either<br>description for 6<br>months, or fine of<br>1,000 rupees, or both | Ditto.                                                                             |
| Ditto ..                      | Ditto .                              | Ditto .                                                                                    | Any Magistrate.                                                                    |
| Ditto ...                     | Ditto .                              | Ditto                                                                                      | Ditto                                                                              |
| Ditto .                       | Ditto ..                             | Ditto .                                                                                    | Presidency Ma-<br>gistrate, or Ma-<br>gistrate of the<br>first or second<br>class. |
| Ditto .                       | Ditto ...                            | Ditto ..                                                                                   | Ditto                                                                              |

## CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH.

| 1        | 2                                                                                                                                                      | 3                                                    | 4                                                          |
|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|------------------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                                                               | Whether the police may arrest without warrant or not | Whether warrant summons shall ordinarily issue in the case |
| 289      | A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt, from such animal. | May arrest without warrant                           | Summons                                                    |
| 290      | Committing a public nuisance. ...                                                                                                                      | Shall not arrest without warrant.                    | Ditto                                                      |
| 291      | Continuance of nuisance after injunction to discontinue                                                                                                | May arrest without warrant                           | Ditto                                                      |
| 292      | Sale, &c., of obscene books, &c.                                                                                                                       | Ditto                                                | Warrant.                                                   |
| 293      | Having in possession obscene books, &c., for sale or exhibition.                                                                                       | Ditto                                                | Ditto                                                      |
| 294      | Obscene songs ...                                                                                                                                      | Ditto                                                | Ditto                                                      |
| 294A     | Keeping a lottery office ...                                                                                                                           | Shall not arrest without warrant.                    | Summons                                                    |

## SAFETY, CONVENIENCE, DECENCY AND MORALS—(continued).

| 5                              | 6                                    | 7                                                                                           | 8                                                                                 |
|--------------------------------|--------------------------------------|---------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not. | Whether<br>compound-<br>able or not. | Punishment under the<br>Indian Penal Code.                                                  | By what Court<br>triable                                                          |
| Bailable ...                   | Not com-<br>poundable                | Imprisonment of either<br>description for 6<br>months, or fine of<br>1,000 rupees, or both. | Any Magistrate.                                                                   |
| Ditto ..                       | Ditto .                              | Fine of 200 rupees .                                                                        | Ditto.                                                                            |
| Ditto ...                      | Ditto ..                             | Simple imprisonment<br>for 6 months, or fine,<br>or both                                    | Presidency Ma-<br>gistrate, or Ma-<br>gistrate of the<br>first or second<br>class |
| Ditto                          | Ditto                                | Imprisonment of either<br>description for 3<br>months, or fine, or<br>both.                 | Ditto                                                                             |
| Ditto ..                       | Ditto ..                             | Ditto ... ..                                                                                | Ditto                                                                             |
| Ditto ...                      | Ditto ...                            | Ditto ... ..                                                                                | Ditto.                                                                            |
| Ditto ..                       | Ditto ..                             | Imprisonment of either<br>description for 3<br>months, or fine, or<br>both.                 | Any Magistrate.                                                                   |



## CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH.

| 1        | 2                                           | 3                                                    | 4                                                                       |
|----------|---------------------------------------------|------------------------------------------------------|-------------------------------------------------------------------------|
| SECTION. | OFFENCE.                                    | Whether the police may arrest without warrant or not | Whether a warrant or summons shall ordinarily be issued in the instance |
|          | Publishing proposals relating to lotteries. | Shall not arrest without warrant                     | Summons                                                                 |

## CHAPTER XV.—OFFENCES

|     |                                                                                                                                                                                            |                                   |         |
|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|---------|
| 205 | Destroying, damaging or defiling a place of worship or sacred object with intent to insult the religion of any class of persons                                                            | May arrest without warrant        | Summons |
| 206 | Causing a disturbance to an assembly engaged in religious worship                                                                                                                          | Ditto ...                         | Ditto   |
| 207 | Trespassing in place of worship or sepulture, disturbing funeral, with intention to wound the feelings, or to insult the religion, of any person, or offering indignity to a human corpse. | Ditto ...                         | Ditto   |
| 208 | Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight, of any person, with intention to wound his religious feeling              | Shall not arrest without warrant. | Ditto   |

## IV, CONVENIENCE, DECENCY AND MARALS—(concluded).

| 5                           | 6                                    | 7                                         | 8                         |
|-----------------------------|--------------------------------------|-------------------------------------------|---------------------------|
| Whether<br>liable or<br>not | Whether<br>compound-<br>able or not. | Punishment under the<br>Indian Penal Code | By what Court<br>triable. |
| Liable ...                  | Not com-<br>poundable                | Fine 1,000 rupees ...                     | Any Magistrate.           |

## ATING TO RELIGION.

|            |                       |                                                                        |                                                                                  |
|------------|-----------------------|------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| Liable ... | Not com-<br>poundable | Imprisonment of either<br>description for 2 years,<br>or fine, or both | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class |
| ditto ...  | Ditto                 | Imprisonment of either<br>description for 1 year,<br>or fine, or both  | Ditto.                                                                           |
| ditto      | Ditto                 | Ditto ..                                                               | Ditto.                                                                           |
| ditto      | Compound-<br>able.    | Ditto                                                                  | Ditto                                                                            |

| 1       | 2                                                                                                                           | 3                                                     | 4                                                                       |
|---------|-----------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|-------------------------------------------------------------------------|
| SECTION | OFFENCE                                                                                                                     | Whether the police may arrest without warrant or not. | Whether a warrant or summons shall ordinarily be issued in the instance |
| 302     | Murder                                                                                                                      | May arrest without warrant                            | Warrant                                                                 |
| 303     | Murder by a person under sentence of transportation for life.                                                               | Ditto                                                 | Ditto                                                                   |
| 304     | Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, &c. | Ditto                                                 | Ditto                                                                   |
|         | If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.               | Ditto                                                 | Ditto                                                                   |
| 304A    | Causing death by rash or negligent act                                                                                      | Ditto                                                 | Ditto                                                                   |
| 305     | Abetment of suicide committed by a child or insane or delirious person, or an idiot, or a person intoxicated.               | Ditto                                                 | Ditto                                                                   |

## AFFECTING THE HUMAN BODY.

## Affecting Life.

| 5                        | 6                            | 7                                                                                      | 8                                                                         |
|--------------------------|------------------------------|----------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| Whether bailable or not, | Whether compoundable or not. | Punishment under the Indian Penal Code.                                                | By what Court triable.                                                    |
| Not bailable             | Not compoundable.            | Death or transportation for life, and fine                                             | Court of Session,                                                         |
| Ditto ...                | Ditto ...                    | Death .. ...                                                                           | Ditto.                                                                    |
| Ditto ...                | Ditto                        | Transportation for life, or imprisonment of either description for 10 years, and fine. | Ditto.                                                                    |
| Ditto ...                | Ditto                        | Imprisonment of either description for 10 years, or fine, or both.                     | Ditto                                                                     |
| Bailable .               | Ditto ..                     | Imprisonment of either description for 2 years, or fine, or both                       | Court of Session, Presidency Magistrate, or Magistrate of the first class |
| Not bailable             | Ditto ...                    | Death or transportation for life, or imprisonment for 10 years, and fine.              | Court of Session.                                                         |

CHAPTER XVI.—OFFENCES AGAINST  
*Of Offences against the Person*

| 1        | 2                                                     | 3                                                     | 4                                                                       |
|----------|-------------------------------------------------------|-------------------------------------------------------|-------------------------------------------------------------------------|
| SECTION. | OFFENCE.                                              | Whether the police may arrest without warrant or not. | Whether warrant or summons shall ordinarily issue in the two instances. |
| 306      | Abetting the commission of suicide.                   | May arrest without warrant                            | Warrant                                                                 |
| 307      | Attempt to murder ...                                 | Ditto ..                                              | Ditto ..                                                                |
|          | If such act cause hurt to any person ...              | Ditto ..                                              | Ditto ..                                                                |
|          | Attempt by life-convict to murder, if hurt is caused. | Ditto ...                                             | Ditto ..                                                                |
| 308      | Attempt to commit culpable homicide                   | Ditto ..                                              | Ditto ..                                                                |
|          | If such act cause hurt to any person.                 | Ditto .                                               | Ditto ..                                                                |
| 309      | Attempt to commit suicide ...                         | Ditto ..                                              | Ditto ..                                                                |
| 311      | Being a thug ...                                      | Ditto ..                                              | Ditto ..                                                                |

## G THE HUMAN BODY—(continued.)

fe—(concluded.)

| 5                              | 6                                   | 7                                                                       | 8                                                                                 |
|--------------------------------|-------------------------------------|-------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not. | Whether<br>compound-<br>able or not | Punishment under the<br>Indian Penal Code                               | By what Court<br>triable.                                                         |
| Not bailable.                  | Not com-<br>poundable.              | Imprisonment of either<br>description for 10<br>years, and fine         | Court of Ses-<br>sion.                                                            |
| Ditto ...                      | Ditto                               | Ditto ..                                                                | Ditto.                                                                            |
| Ditto ..                       | Ditto                               | Transportation for life,<br>or as above                                 | Ditto.                                                                            |
| Ditto                          | Ditto                               | Death or as above                                                       | Ditto                                                                             |
| Bailable ..                    | Ditto                               | Imprisonment of either<br>description for 3 years,<br>or fine, or both. | Ditto                                                                             |
| Ditto ..                       | Ditto                               | Imprisonment of either<br>description for 7 years,<br>or fine, or both  | Ditto.                                                                            |
| Ditto ...                      | Ditto .                             | Simple imprisonment<br>for 1 year, or fine, or<br>both                  | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class. |
| Not bailable.                  | Ditto ..                            | Transportation for life<br>and fine.                                    | Court of Session.                                                                 |

## CHAPTER XVI.—OFFENCES AGAINST

*Of the Causing of Miscarriage ; of Injuries to Unborn Children.*

| SECTION. | 1                                                                                               | 2        | 3                                                    | 4                                                          |
|----------|-------------------------------------------------------------------------------------------------|----------|------------------------------------------------------|------------------------------------------------------------|
|          |                                                                                                 | OFFENCE. | Whether the police may arrest without warrant or not | Whether warrant or summons shall be issued in the instance |
| 312      | Causing miscarriage ... ..                                                                      |          | Shall not arrest without warrant.                    | Warrant.                                                   |
|          | If the woman be quick with child ..                                                             |          | Ditto ..                                             | Ditto ..                                                   |
| 13       | Causing miscarriage without woman's consent.                                                    |          | Ditto ..                                             | Ditto ..                                                   |
| 4        | Death caused by an act done with intent to cause miscarriage.                                   |          | Ditto ..                                             | Ditto ..                                                   |
|          | If act done without woman's consent                                                             |          | Ditto ..                                             | Ditto ..                                                   |
|          | Act done with intent to prevent a child being born alive, or to cause it to die after its birth |          | Ditto ..                                             | Ditto ..                                                   |
|          | Causing death of a quick unborn child by an act amounting to culpable homicide.                 |          | Ditto ..                                             | Ditto ..                                                   |

THE HUMAN BODY—(continued).

*Exposure of Infants ; and of the Concealment of Births.*

| 5                               | 6                                   | 7                                                                                             | 8                        |
|---------------------------------|-------------------------------------|-----------------------------------------------------------------------------------------------|--------------------------|
| Whether<br>punishable or<br>not | Whether<br>compound-<br>able or not | Punishment under the<br>Indian Penal Code.                                                    | By what Court<br>triable |
| Punishable                      | Not compoundable                    | Imprisonment of either<br>description for 3<br>years, or fine, or both                        | Court of Session         |
| Ditto                           | Ditto                               | Imprisonment of either<br>description for 7<br>years and fine                                 | Ditto                    |
| Punishable                      | Ditto                               | Transportation for life,<br>or imprisonment of<br>either description for<br>10 years and fine | Ditto                    |
| Ditto                           | Ditto                               | Imprisonment of either<br>description for 10<br>years and fine                                | Ditto                    |
| Ditto                           | Ditto                               | Transportation for life,<br>or as above                                                       | Ditto                    |
| Ditto                           | Ditto                               | Imprisonment of either<br>description for 10<br>years, or fine, or both                       | Ditto                    |
| Ditto                           | Ditto                               | Imprisonment of either<br>description for 10<br>years and fine                                | Ditto                    |



CHAPTER XVI.—OFFENCES AGAINST  
OF

| 1        | 2                                                                                                                                                                          | 3                                                     | 4                                                               |
|----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|-----------------------------------------------------------------|
| SECTION. | OFFENCE                                                                                                                                                                    | Whether the police may arrest without warrant or not. | Whether warrant or summons shall or may be issued in the police |
| 325      | Voluntarily causing grievous hurt .                                                                                                                                        | May arrest without warrant.                           | Summons                                                         |
| 326      | Voluntarily causing grievous hurt by dangerous weapons or means                                                                                                            | Ditto                                                 | Ditto                                                           |
| 327      | Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence. | Ditto                                                 | Warrant                                                         |
| 328      | Administering stupefying drug with intent to cause hurt, &c                                                                                                                | Ditto                                                 | Ditto                                                           |

## THE HUMAN BODY—(continued).

(continued)

| 5                         | 6                                                                                        | 7                                                                                    | 8                                                                                    |
|---------------------------|------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| Whether available or not. | Whether compoundable or not.                                                             | Punishment under the Indian Penal Code                                               | By what Court triable                                                                |
| Available ...             | Compoundable when permission is given by the Court before which a prosecution is pending | Imprisonment of either description for 7 years and fine                              | Court of Session, Presidency Magistrate, or Magistrate of the first or second class. |
| Not available             | Not compoundable                                                                         | Transportation for life, or imprisonment of either description for 10 years and fine | Court of Session, Presidency Magistrate, or Magistrate of the first class            |
| Ditto ...                 | Ditto                                                                                    | Imprisonment of either description for 10 years and fine.                            | Court of Session                                                                     |
| Ditto                     | Ditto                                                                                    | Ditto                                                                                | Ditto.                                                                               |

| 1        | 2                                                                                                                                                                                  | 3                                                    | 4                                                                         |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|---------------------------------------------------------------------------|
| SECTIONS | OFFENCE.                                                                                                                                                                           | Whether the police may arrest without warrant or not | Whether a warrant or summons shall ordinarily issue in the first instance |
| 29       | Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence | May arrest without warrant.                          | Warrant.                                                                  |
| 30       | Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c                                                                             | Ditto                                                | Ditto                                                                     |
|          | Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.                                                                   | Ditto                                                | Ditto                                                                     |
|          | Voluntarily causing hurt to deter public servant from his duty.                                                                                                                    | Ditto                                                | Ditto                                                                     |
|          | Voluntarily causing grievous hurt to deter public servant from his duty                                                                                                            | Ditto                                                | Ditto                                                                     |

## TO THE HUMAN BODY—(continued.)

(continued.)

| 5                        | 6                            | 7                                                                                     | 8                                                                         |
|--------------------------|------------------------------|---------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| Whether bailable or not. | Whether compoundable or not. | Punishment under the Indian Penal Code                                                | By what Court triable                                                     |
| Not bailable.            | Not compoundable.            | Transportation for life, or imprisonment of either description for 10 years and fine. | Court of Session                                                          |
| Bailable ..              | Ditto                        | Imprisonment of either description for 7 years and fine                               | Ditto.                                                                    |
| Not bailable             | Ditto                        | Imprisonment of either description for 10 years and fine                              | Ditto                                                                     |
| Bailable                 | Ditto                        | Imprisonment of either description for 3 years, or fine, or both                      | Court of Session, Presidency Magistrate, or Magistrate of the first class |
| Not bailable             | Ditto                        | Imprisonment of either description for 10 years and fine.                             | Court of Session                                                          |

CHAPTER XVI.—OFFENCES AGAINST  
OF E

| 1        | 2                                                                                                                                  | 3                                                    | 4                                                                         |
|----------|------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|---------------------------------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                                           | Whether the police may arrest without warrant or not | Whether warrant or summons shall ordinarily be issued in the instant case |
| 334      | Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation | Shall not arrest without warrant                     | Summons                                                                   |
| 335      | Causing hurt                                                                                                                       | May arrest without warrant                           | Ditto                                                                     |
| 336      | Doing any act which endangers human life or the personal safety of others                                                          | Ditto                                                | Ditto                                                                     |
| 337      | Causing hurt by an act which endangers human life, &c.                                                                             | Ditto                                                | Ditto                                                                     |

## G THE HUMAN BODY—(continued).

(continued)

| 5                             | 6                                                                                                                  | 7                                                                                          | 8                                                                                                  |
|-------------------------------|--------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not | Whether<br>compound-<br>able or not.                                                                               | Punishment under the<br>Indian Penal Code                                                  | By what Court<br>triable                                                                           |
| Bailable                      | Compound-<br>able                                                                                                  | Imprisonment of either<br>description for 1<br>month, or fine of 500<br>rupees, or both    | Any Magistrate.                                                                                    |
| Ditto                         | Compound-<br>able when<br>permission<br>is given by<br>the Court<br>before<br>which a<br>prosecution<br>is pending | Imprisonment of either<br>description for 4<br>years, or fine, of 2,000<br>rupees, or both | Court of Session,<br>Presidency<br>Magistrate, or<br>Magistrate of<br>the first or<br>second class |
| Ditto                         | Not com-<br>poundable                                                                                              | Imprisonment of either<br>description for 3<br>months, or fine of<br>250 rupees, or both   | Any Magistrate                                                                                     |
| Ditto                         | Compound-<br>able when<br>permission<br>is given by<br>the Court<br>before<br>which a<br>prosecution<br>is pending | Imprisonment of either<br>description for 6<br>months, or fine of<br>500 rupees, or both   | Presidency Ma-<br>gistrate, or Ma-<br>gistrate of the<br>first or second<br>class                  |

CHAPTER XVI.—OFFENCES AGAINST  
OF PERSONS

| 1        | 2                                                              | 3                                                    | 4                                                                       |
|----------|----------------------------------------------------------------|------------------------------------------------------|-------------------------------------------------------------------------|
| SECTION. | OFFENCE                                                        | Whether the police may arrest without warrant or not | Whether a warrant or summons shall only be served in the first instance |
| 338      | Causing grievous hurt by an act which endangers human life, &c | May arrest without warrant.                          | Summons                                                                 |

*Of Wrongful Restraints*

|     |                                             |                            |         |
|-----|---------------------------------------------|----------------------------|---------|
| 341 | Wrongfully restraining any person           | May arrest without warrant | Summons |
| 342 | Wrongfully confining any person .           | Ditto .                    | Ditto . |
| 343 | Wrongfully confining for three or more days | Ditto .                    | Ditto . |

THE HUMAN BODY—(continued.)  
(concluded.)

| 5                       | 6                                                                                        | 7                                                                                | 8                                                                 |
|-------------------------|------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|-------------------------------------------------------------------|
| Whether bailable or not | Whether compoundable or not.                                                             | Punishment under the Indian Penal Code                                           | By what Court triable                                             |
| Bailable ...            | Compoundable when permission is given by the Court before which a prosecution is pending | Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both | Presidency Magistrate, or Magistrate of the first or second class |

*Wrongful Confinement.*

|          |                   |                                                                                  |                                                                   |
|----------|-------------------|----------------------------------------------------------------------------------|-------------------------------------------------------------------|
| Bailable | Compoundable      | Simple imprisonment for 1 month, or fine of 500 rupees, or both                  | Any Magistrate.                                                   |
| Ditto .. | Ditto             | Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both. | Presidency Magistrate, or Magistrate of the first or second class |
| Ditto .. | Not compoundable. | Imprisonment of either description for 2 years, or fine, or both.                | Ditto.                                                            |



## CHAPTER XVI.—OFFENCES

*Of Wrongful Restraint*

| 1       | 2                                                                                                                         | 3                                                    | 4                                                                      |
|---------|---------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|------------------------------------------------------------------------|
| SECTION | OFFENCE                                                                                                                   | Whether the police may arrest without warrant or not | Whether warrant shall be issued in ordinary cases or in first instance |
| 344     | Wrongfully confining for ten or more days                                                                                 | May arrest without warrant                           | Summons                                                                |
| 345     | Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.                       | Shall not arrest without warrant                     | Ditto                                                                  |
| 346     | Wrongful confinement in secret ..                                                                                         | May arrest without warrant                           | Ditto                                                                  |
| 347     | Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c                         | Ditto                                                | Ditto                                                                  |
| 348     | Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c | Ditto                                                | Ditto                                                                  |

## THE HUMAN BODY—(continued.)

## Angry Confinement—(concluded.)

| 5                            | 6                                   | 7                                                                                                                 | 8                                                                                                     |
|------------------------------|-------------------------------------|-------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|
| Whether<br>liable or<br>not. | Whether<br>compound-<br>able or not | Punishment under the<br>Indian Penal Code                                                                         | By what Court<br>triable                                                                              |
| liable . .                   | Not com-<br>poundable               | Imprisonment of either<br>description for 3 years,<br>and fine                                                    | Court of Session,<br>Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class |
| Ditto .                      | Ditto                               | Imprisonment of either<br>description for 2 years,<br>in addition to impris-<br>onment under any<br>other section | Ditto                                                                                                 |
| Ditto .                      | Ditto                               | Ditto                                                                                                             | Ditto                                                                                                 |
| Ditto                        | Ditto                               | Imprisonment of either<br>description for 3 years<br>and fine                                                     | Ditto                                                                                                 |
| Ditto                        | Ditto                               | Ditto                                                                                                             | Court of Session<br>Presidency<br>Magistrate or<br>Magistrate of<br>the first class                   |

CHAPTER XVI.—OFFENCES AGAINST  
Of Criminal Force

| 1       | 2                                                                                                          | 3                                                     | 4                                                   |
|---------|------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|-----------------------------------------------------|
| SECTION | OFFENCE                                                                                                    | Whether the police may arrest without warrant or not. | Whether warrant shall ordinarily issue in the case. |
| 352     | Assault or use of criminal force otherwise than on grave provocation.                                      | Shall not arrest without warrant                      | Summons                                             |
| 353     | Assault or use of criminal force to deter a public servant from discharge of his duty.                     | May arrest without warrant.                           | Warrant                                             |
| 354     | Assault or use of criminal force to a woman with intent to outrage her modesty.                            | Ditto ..                                              | Ditto ..                                            |
| 355     | Assault or criminal force with intent to dishonour a person otherwise than on grave and sudden provocation | Shall not arrest without warrant                      | Summons                                             |
| 356     | Assault or criminal force in attempt to commit theft of property worn or carried by a person.              | May arrest without warrant.                           | Warrant                                             |
| 357     | Assault or use of criminal force in attempt wrongfully to confine a person                                 | Ditto ..                                              | Ditto ..                                            |

## THE HUMAN BODY—(continued).

## Assault.

| 5                              | 6                                    | 7                                                                                            | 8                                                                                |
|--------------------------------|--------------------------------------|----------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not. | Whether<br>compound-<br>able or not. | Punishment under<br>the Indian Penal<br>Code                                                 | By what<br>Court<br>triable                                                      |
| Bailable                       | Compound-<br>able.                   | Imprisonment of either<br>description for three<br>months, or fine of 500<br>rupees, or both | Any Magistrate.                                                                  |
| Ditto                          | Not com-<br>poundable                | Imprisonment of either<br>description for 3<br>years, or fine or both                        | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class |
| Ditto                          | Ditto                                | Ditto                                                                                        | Ditto                                                                            |
| Ditto                          | Compound-<br>able                    | Ditto                                                                                        | Ditto                                                                            |
| Not bailable                   | Not com-<br>poundable                | Ditto                                                                                        | Any Magistrate                                                                   |
| Bailable                       | Ditto                                | Imprisonment of either<br>description for 1 year,<br>or fine of 1,000 rupees,<br>or both.    | Ditto                                                                            |

CHAPTER XVI.—OFFENCES AGAINST  
Of Criminal F

| 1        | 2                                                                | 3                                                    | 4                                                                     |
|----------|------------------------------------------------------------------|------------------------------------------------------|-----------------------------------------------------------------------|
| SECTION. | OFFENCE                                                          | Whether the police may arrest without warrant or not | Whether warrant or summons shall ordinarily be issued in the instance |
| 358      | Assault or use of criminal force on grave and sudden provocation | Shall not arrest without warrant                     | Summons                                                               |

Of Kidnapping, Abduction

|     |                                                                                       |                            |         |
|-----|---------------------------------------------------------------------------------------|----------------------------|---------|
| 363 | Kidnapping                                                                            | May arrest without warrant | Warrant |
| 364 | Kidnapping or abducting in order to murder.                                           | Ditto                      | Ditto   |
| 365 | Kidnapping or abducting with intent secretly and wrongfully to confine a person.      | Ditto                      | Ditto   |
| 366 | Kidnapping or abducting a woman to compel her marriage or to cause her debilement, &c | Ditto                      | Ditto   |

## THE HUMAN BODY—(continued.)

## Assault—(continued.)

| 5                         | 6                           | 7                                                                | 8                     |
|---------------------------|-----------------------------|------------------------------------------------------------------|-----------------------|
| Whether available or not. | Whether compoundable or not | Punishment under the Indian Penal Code.                          | By what Court triable |
| Available ..              | Compoundable.               | Simple imprisonment for 1 month. or fine of 200 Rupees, or both. | Any Magistrate.       |

*Stiffness and Forced Labour.*

|               |                  |                                                                         |                                                                            |
|---------------|------------------|-------------------------------------------------------------------------|----------------------------------------------------------------------------|
| Not available | Not compoundable | Imprisonment of either description for 7 years and fine.                | Court of Session, Presidency Magistrate, or Magistrate of the first class  |
| Ditto ..      | Ditto .          | Transportation for life, or rigorous imprisonment for 10 years and fine | Court of Session.                                                          |
| Ditto         | Ditto            | Imprisonment of either description for 7 years and fine                 | Court of Session, Presidency Magistrate, or Magistrate of the first class. |
| Ditto .       | Ditto            | Imprisonment of either description for 10 years and fine                | Court of Session.                                                          |

CHAPTER XVI.—OFFENCES AT  
Of Kidnapping, Abduction, &c.

| 1       | 2                                                                                           | 3                                                    | 4    |
|---------|---------------------------------------------------------------------------------------------|------------------------------------------------------|------|
| SECTION | OFFENCE.                                                                                    | Whether the police may arrest without warrant or not | What |
| 367     | Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.         | May arrest without warrant                           | Var  |
| 368     | Concealing or keeping in confinement a kidnapped person.                                    | Ditto ..                                             | Dit  |
| 369     | Kidnapping or abducting a child with intent to take property from the person of such child. | Ditto .                                              | Dit  |
| 370     | Buying or disposing of any person as a slave                                                | Shall not arrest without warrant                     | Dit  |
| 371     | Habitual dealing in slaves                                                                  | May arrest without warrant.                          | D    |
| 372     | Selling or letting to hire a minor for purposes of prostitution, &c                         | Ditto .                                              | D    |

## THE HUMAN BODY—(continued.)

## Forced Labour—(continued)

| 5                              | ■                                   | 7                                                                                              | ■                                                                                      |
|--------------------------------|-------------------------------------|------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not. | Whether<br>compound-<br>able or not | Punishment under the<br>Indian Penal Code.                                                     | By what Court<br>triable                                                               |
| Not bailable                   | Not com-<br>poundable               | Imprisonment of either<br>description for 10<br>years and fine.                                | Court of Session.                                                                      |
| Ditto ..                       | Ditto ..                            | Punishment for kid-<br>napping or abduction                                                    | Ditto.                                                                                 |
| Ditto ..                       | Ditto ..                            | Imprisonment of either<br>description for 7 years<br>and fine                                  | Court of Session,<br>Presidency<br>Magistrate, or<br>Magistrate of<br>the first class. |
| Bailable ..                    | Ditto                               | Ditto                                                                                          | Court of Session.                                                                      |
| Not bailable                   | Ditto                               | Transportation for life,<br>or imprisonment of<br>either description for<br>10 years and fine. | Ditto.                                                                                 |
| Ditto                          | Ditto                               | Imprisonment of either<br>description for 10<br>years and fine                                 | Court of Session,<br>Presidency<br>Magistrate, or<br>Magistrate of<br>the first class. |



CHAPTER XVI.—OFFENCES AGAINST  
*Of Kidnapping, Abduction, &c.*

| 1        | 2                                                                  | 3                                                     | 4                                              |
|----------|--------------------------------------------------------------------|-------------------------------------------------------|------------------------------------------------|
| SECTION. | OFFENCE.                                                           | Whether the police may arrest without warrant or not. | Whether a warrant shall be issued in the case. |
| 373      | Buying or obtaining possession of a minor for the same purposes.   | May arrest without warrant                            | Warrant                                        |
| 374      | Unlawful compulsory labour ...                                     | Ditto                                                 | Ditto                                          |
| 376      | Rape—<br>If the sexual intercourse was by a man with his own wife. | Shall not arrest without warrant.                     | So                                             |
|          | In any other case ...                                              | May arrest without warrant.                           | W                                              |

## THE HUMAN BODY—(continued.)

## Forced Labour—(concluded.)

| 5.                             | 6.                                  | 7.                                                                                             | 8.                                                                                     |
|--------------------------------|-------------------------------------|------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not. | Whether<br>compound-<br>able or not | Punishment under the<br>Indian Penal Code                                                      | By what Court<br>triable.                                                              |
| bailable.                      | Not com-<br>poundable.              | Imprisonment of either<br>description for 10<br>years and fine.                                | Court of Session,<br>Presidency<br>Magistrate, or<br>Magistrate of<br>the first class. |
| Not bailable.                  | Compound-<br>able                   | Imprisonment of either<br>description for 1 year,<br>or fine, or both                          | Any Magistrate.                                                                        |
| ... of.                        |                                     |                                                                                                |                                                                                        |
| Not bailable ...               | Not com-<br>poundable               | Transportation for life,<br>or imprisonment of<br>either description for<br>10 years and fine. | Court of Session.                                                                      |
| Not bailable.                  | Ditto                               | Ditto . . .                                                                                    | Ditto.                                                                                 |

CHAPTER XVI.—OFFENCES AGAINST  
Of Law.

| 1        | 2                            | 3                                                     | 4                                                           |
|----------|------------------------------|-------------------------------------------------------|-------------------------------------------------------------|
| SECTION. | OFFENCE.                     | Whether the police may arrest without warrant or not. | Whether warrant or summons shall be issued in the instance. |
| 377      | Unnatural offences . . . . . | May arrest without warrant.                           | Warrant                                                     |

## CHAPTER XVII.—OFFENCES

|     |                                                                            |                             |                 |
|-----|----------------------------------------------------------------------------|-----------------------------|-----------------|
| 379 | Theft . . . . .                                                            | May arrest without warrant. | Warrant         |
| 380 | Theft in a building, tent or vessel. . . . .                               | Ditto . . . . .             | Ditto . . . . . |
| 381 | Theft by clerk or servant of property in possession of master or employer. | Ditto . . . . .             | Ditto . . . . . |

## THE HUMAN BODY—(concluded.)

ces.

| 5                              | 6                                    | 7                                                                                              | 8                                                                                    |
|--------------------------------|--------------------------------------|------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not. | Whether<br>compound-<br>able or not. | Punishment under the<br>Indian Penal Code.                                                     | By what Court<br>triable                                                             |
| bailable.                      | Not com-<br>poundable                | Transportation for life,<br>or imprisonment of<br>either description for<br>10 years and fine. | Court of Session,<br>Presidency<br>Magistrate or<br>Magistrate of<br>the first class |

## AGAINST PROPERTY.

|          |                       |                                                                        |                                                                                                   |
|----------|-----------------------|------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| bailable | Not com-<br>poundable | Imprisonment of either<br>description for 3<br>years, or fine, or both | Any Magistrate                                                                                    |
| Ditto    | Ditto                 | Imprisonment of either<br>description for 7 years<br>and fine          | Ditto                                                                                             |
| Ditto    | Ditto                 | Ditto                                                                  | Court of Session,<br>Presidency<br>Magistrate or<br>Magistrate of<br>the first or<br>second class |

| 1        | 2                                                                                                                                                                                                                                             | 3                                                     | 4                                                        |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|----------------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                                                                                                                                                      | Whether the police may arrest without warrant or not. | Whether a warrant shall be issued in the first instance. |
| 382      | Theft, preparation having been made for causing death or hurt, or restraint, or fear of death, or of hurt or of restraint, in order to the committing of such theft, or to retiring after committing it, or to retaining property taken by it | May arrest without warrant                            | Warrant.                                                 |
| 384      | Extortion ... ..                                                                                                                                                                                                                              | Shall not arrest without warrant                      | Warrant.                                                 |
| 385      | Putting or attempting to put in fear of injury, in order to commit extortion                                                                                                                                                                  | Ditto                                                 | Ditto                                                    |
| 386      | Extortion by putting a person in fear of death or grievous hurt                                                                                                                                                                               | Ditto                                                 | Ditto                                                    |
| 387      | Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.                                                                                                                                         | Ditto                                                 | Ditto                                                    |

AGAINST PROPERTY—(continued)  
(concluded.)

| 5                              | 6                                    | 7                                              | 8                                                                                         |
|--------------------------------|--------------------------------------|------------------------------------------------|-------------------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not. | Whether<br>compound-<br>able or not. | Punishment under<br>the Indian Penal<br>Code.  | By what<br>Court<br>triable.                                                              |
| Not bailable                   | Not com-<br>poundable.               | Rigorous imprisonment<br>for 10 years and fine | Court of Session,<br>Presidency Ma-<br>gistrate, or Ma-<br>gistrate of the<br>first class |

Extortion.

|               |                        |                                                                        |                                                                                                         |
|---------------|------------------------|------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| Bailable      | Not com-<br>poundable. | Imprisonment of either<br>description for 3<br>years, or fine, or both | Court of Session,<br>Presidency Ma-<br>gistrate, or Ma-<br>gistrate of the<br>first or second<br>class. |
| Ditto         | Ditto                  | Imprisonment of either<br>description for 2<br>years, or fine, or both | Ditto.                                                                                                  |
| Not bailable. | Ditto                  | Imprisonment of either<br>description for 10<br>years and fine         | Court of Session.                                                                                       |
| Ditto         | Ditto                  | Imprisonment of either<br>description for 7 years<br>and fine          | Ditto                                                                                                   |

CHAPTER XVII.—OFFENCE  
Of Extort.

| 1<br>SECTION. | 2<br>OFFENCE.                                                                                                                                                     | 3<br>Whether the police may arrest without warrant or not. | 4<br>Whether a warrant or a summons shall only be issued the first instance. |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|------------------------------------------------------------------------------|
| 388           |                                                                                                                                                                   | Shall not arrest without warrant.                          | Warrant                                                                      |
|               | If the offence threatened be an unnatural offence.                                                                                                                | Ditto ..                                                   | Ditto                                                                        |
| 389           | Putting a person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion | Ditto ..                                                   | Ditto                                                                        |
|               | If the offence be an unnatural offence.                                                                                                                           | Ditto ..                                                   | Ditto                                                                        |
| Of Robbery    |                                                                                                                                                                   |                                                            |                                                                              |
| 392           | Robbery .. ..                                                                                                                                                     | May arrest without warrant                                 | Warrant                                                                      |
|               | If committed on the highway between sunset and sunrise                                                                                                            | Ditto                                                      | Ditto                                                                        |

AGAINST PROPERTY—(continued.)

—(concluded.)

| 5                        | 6                            | 7                                                        | 8                     |
|--------------------------|------------------------------|----------------------------------------------------------|-----------------------|
| Whether bailable or not. | Whether compoundable or not. | Punishment under the Indian Penal Code.                  | By what Court triable |
| Bailable . .             | Not compoundable.            | Imprisonment of either description for 10 years and fine | Court of Session.     |
| Ditto . . .              | Ditto . .                    | Transportation for life                                  | Ditto.                |
| Ditto .                  | Ditto                        | Imprisonment of either description for 10 years and fine | Ditto.                |
| Ditto .                  | Ditto                        | Transportation for life                                  | Ditto                 |

and Dacoity.

|              |                  |                                             |                                                                           |
|--------------|------------------|---------------------------------------------|---------------------------------------------------------------------------|
| Not bailable | Not compoundable | Rigorous imprisonment for 10 years and fine | Court of Session, Presidency Magistrate or Magistrate of the first class. |
| Ditto .      | Ditto .          | Rigorous imprisonment for 14 years and fine | Ditto.                                                                    |



## SCH. II.—STATEMENT OF OFFENCES.

CHAPTER XVII.—OFFENCES  
Of Robbery and

| 1        | 2                                                                                                                                     | 3                                                     | 4                                                                          |
|----------|---------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|----------------------------------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                                              | Whether the police may arrest without warrant or not. | Whether a warrant or summons shall ordinarily issue in the first instance. |
| 393      | Attempt to commit robbery ...                                                                                                         | May arrest without warrant.                           | Warrant                                                                    |
| 394      | Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery. | Ditto ..                                              | Ditto                                                                      |
| 395      | Dacoity . . . . .                                                                                                                     | Ditto .                                               | Ditto                                                                      |
| 396      | Murder in dacoity ..                                                                                                                  | Ditto .                                               | Ditto                                                                      |
| 397      | Robbery or dacoity with attempt to cause death or grievous hurt.                                                                      | Ditto ...                                             | Ditto                                                                      |
| 398      | Attempt to commit robbery or dacoity when armed with deadly weapon                                                                    | Ditto ...                                             | Ditto                                                                      |
| 399      | Making preparation to commit dacoity.                                                                                                 | Ditto ..                                              | Ditto                                                                      |

## AGAINST PROPERTY—(continued.)

## Dacoity—(continued.)

| 5                        | 6                            | 7                                                                              | 8                                                                          |
|--------------------------|------------------------------|--------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| Whether bailable or not. | Whether compoundable or not. | Punishment under the Indian Penal Code                                         | By what Court triable.                                                     |
| Not bailable.            | Not compoundable.            | Rigorous imprisonment for 7 years and fine.                                    | Court of Session, Presidency Magistrates or Magistrates of the first class |
| Ditto ...                | Ditto .                      | Transportation for life or rigorous imprisonment for 10 years and fine.        | Ditto.                                                                     |
| Ditto ...                | Ditto ..                     | Ditto .                                                                        | Court of Session.                                                          |
| Ditto .                  | Ditto .                      | Death, transportation for life or rigorous imprisonment for 10 years and fine. | Ditto                                                                      |
| Ditto ..                 | Ditto ..                     | Rigorous imprisonment for not less than 7 years                                | Ditto.                                                                     |
| Ditto ...                | Ditto                        | Ditto ... .                                                                    | Ditto.                                                                     |
| Ditto .                  | Ditto ...                    | Rigorous imprisonment for 10 years and fine.                                   | Ditto.                                                                     |

CHAPTER XVII.—OFFENCES  
Of Robber.

| SECTION | 1 | 2                                                                                                   | 3                                                     | 4                                                        |
|---------|---|-----------------------------------------------------------------------------------------------------|-------------------------------------------------------|----------------------------------------------------------|
|         |   |                                                                                                     |                                                       |                                                          |
|         |   | OFFENCE.                                                                                            | Whether the police may arrest without warrant or not. | Whether warrant summarily or by order of the Magistrate. |
| 400     |   | Belonging to a gang of persons associated for the purpose of habitually committing dacoity.         | May arrest without warrant                            | Warrant                                                  |
| 401     |   | Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts | Ditto ..                                              | Ditto                                                    |
| 402     |   | Being one of five or more persons assembled for the purpose of committing dacoity.                  | Ditto .                                               | Ditto                                                    |

## Of Criminal M.

|     |  |                                                                                                                                                                                                     |                                   |         |
|-----|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|---------|
| 403 |  | Dishonest misappropriation of movable property, or converting it to one's own use                                                                                                                   | Shall not arrest without warrant. | Warrant |
| 404 |  | Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it. | Ditto ...                         | Ditto   |

AGAINST PROPERTY—(continued.)

acoity—(concluded.)

| 5                       | 6                           | 7                                                                       | 8                                                                        |
|-------------------------|-----------------------------|-------------------------------------------------------------------------|--------------------------------------------------------------------------|
| Whether bailable or not | Whether compoundable or not | Punishment under the Indian Penal Code                                  | By what Court triable.                                                   |
| Not bailable            | Not compoundable            | Transportation for life, or rigorous imprisonment for 10 years and fine | Court of Session.                                                        |
| Ditto                   | Ditto                       | Rigorous imprisonment for 7 years and fine                              | Court of Session, Presidency Magistrate or Magistrate of the first class |
| Ditto                   | Ditto                       | Ditto                                                                   | Court of Session.                                                        |

appropriation of Property.

| Bailable | Not compoundable | Imprisonment of either description for 2 years, or fine, or both | Any Magistrate.                                                                    |
|----------|------------------|------------------------------------------------------------------|------------------------------------------------------------------------------------|
| Ditto    | Ditto            | Imprisonment of either description for 3 years and fine.         | Court of Session, Presidency Magistrate or Magistrate of the first or second class |

CHAPTER XVII.—*Offences  
Of Criminal Muzungu*

| 1                          | 2                                                     | 3                                                    | 4                                                                   |
|----------------------------|-------------------------------------------------------|------------------------------------------------------|---------------------------------------------------------------------|
| SECTION.                   | OFFENCE.                                              | Whether the police may arrest without warrant or not | Whether warrant or summons shall ordinarily be required in the case |
| 405                        | If by clerk or person employed by deceased.           | Shall not arrest without warrant.                    | Warrant.                                                            |
| <i>Of Criminal Muzungu</i> |                                                       |                                                      |                                                                     |
| 406                        | Criminal breach of trust                              | May arrest without warrant                           | Warrant.                                                            |
| 407                        | Criminal breach of trust by a carrier, wharfinger, &c | Ditto                                                | Ditto                                                               |
| 408                        | Criminal breach of trust by a clerk or servant.       | Ditto                                                | Ditto                                                               |

## AGAINST PROPERTY—(continued.)

## Breach of Property—(continued.)

| 5                        | 6                           | 7                                                        | 8                                                                                   |
|--------------------------|-----------------------------|----------------------------------------------------------|-------------------------------------------------------------------------------------|
| Whether bailable or not. | Whether compoundable or not | Punishment under the Indian Penal Code                   | By what Court triable.                                                              |
| Bailable ..              | Not compoundable            | Imprisonment of either description for 7 years and fine. | Court of Session, Presidency Magistrate or Magistrate of the first or second class. |

## Breach of Trust.

|              |                  |                                                                  |                                                                                      |
|--------------|------------------|------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| Not bailable | Not compoundable | Imprisonment of either description for 3 years, or fine, or both | Court of Session, Presidency Magistrate, or Magistrate of the first or second class. |
| Ditto .      | Ditto            | Imprisonment of either description for 7 years, and fine         | Court of Session, Presidency Magistrate, or Magistrate of the first class.           |
| Ditto .      | Ditto            | Ditto .                                                          | Court of Session, Presidency Magistrate or Magistrate of the first or second class.  |

| 1        | 2                                                                                 | 3                                                    | 4                                                     |
|----------|-----------------------------------------------------------------------------------|------------------------------------------------------|-------------------------------------------------------|
| SECTION. | OFFENCE                                                                           | Whether the police may arrest without warrant or not | Whether warrant shall be issued in the first instance |
| 400      | Criminal breach of trust by public servant, or by banker, merchant, or agent, &c. | May arrest without warrant                           | Warrant                                               |

Of the F.

|     |                                                                                 |                             |         |
|-----|---------------------------------------------------------------------------------|-----------------------------|---------|
| 411 | Dishonestly receiving stolen property, knowing it to be stolen                  | May arrest without warrant. | Warrant |
| 412 | Dishonestly receiving stolen property, knowing that it was obtained by dacoity. | Ditto                       | Ditto   |
| 413 | Habitually dealing in stolen property.                                          | Ditto                       | Ditto   |

## AGAINST PROPERTY—(continued).

## Trust—(continued.)

| 5                       | 6                            | 7                                                                                     | 8                                                                         |
|-------------------------|------------------------------|---------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| Whether bailable or not | Whether compoundable or not. | Punishment under the Indian Penal Code.                                               | By what Court triable.                                                    |
| Not bailable.           | Not compoundable             | Transportation for life, or imprisonment of either description for 10 years and fine. | Court of Session, Presidency Magistrate or Magistrate of the first class. |

## Stolen Property.

|              |                  |                                                                                       |                                                                                     |
|--------------|------------------|---------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
| Not bailable | Not compoundable | Imprisonment of either description for 3 years, or fine, or both.                     | Court of Session, Presidency Magistrate or Magistrate of the first or second class. |
| Ditto ..     | Ditto .          | Transportation for life, or rigorous imprisonment for 10 years and fine.              | Court of Session.                                                                   |
| Ditto ..     | Ditto ..         | Transportation for life, or imprisonment of either description for 10 years and fine. | Ditto.                                                                              |



CHAPTER XVII.—*Of Criminal Law*

| 1<br>SECTION.        | 2<br>OFFENCE                                                                     | 3<br>Whether the police may arrest without warrant or not. | 4<br>Whether warrant shall be issued in the first instance |
|----------------------|----------------------------------------------------------------------------------|------------------------------------------------------------|------------------------------------------------------------|
| 409                  | Criminal breach of trust by public servant, or by banker, merchant, or agent, &c | May arrest without warrant                                 | Warrant                                                    |
| <i>Of the Police</i> |                                                                                  |                                                            |                                                            |
| 11                   | Dishonestly receiving stolen property, knowing it to be stolen                   | May arrest without warrant.                                | Warrant                                                    |
| 12                   | Dishonestly receiving stolen property, knowing that it was obtained by dacoity.  | Ditto                                                      | Ditto                                                      |
| 13                   | Habitually dealing in stolen property                                            | Ditto                                                      | Ditto                                                      |

AGAINST PROPERTY—(continued).

Trust—(continued)

| 5                              | 6                                    | 7                                                                                             | 8                                                                                     |
|--------------------------------|--------------------------------------|-----------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| Whether<br>bailable<br>or not. | Whether<br>compound-<br>able or not. | Punishment under the<br>Indian Penal Code                                                     | By what Court<br>triable.                                                             |
| Not bailable.                  | Not com-<br>poundable.               | Transportation for life,<br>or imprisonment of<br>either description for<br>10 years and fine | Court of Session,<br>Presidency<br>Magistrate or<br>Magistrate of<br>the first class. |

Stolen Property.

|              |                       |                                                                                                |                                                                                                    |
|--------------|-----------------------|------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| Not bailable | Not com-<br>poundable | Imprisonment of either<br>description for 3<br>years, or fine, or both.                        | Court of Session,<br>Presidency<br>Magistrate or<br>Magistrate of<br>the first or<br>second class. |
| Ditto ..     | Ditto ..              | Transportation for life,<br>or rigorous imprison-<br>ment for 10 years and<br>fine.            | Court of Session.                                                                                  |
| Ditto ..     | Ditto ..              | Transportation for life,<br>or imprisonment of<br>either description for<br>10 years and fine. | Ditto.                                                                                             |

| SECTION. | 1            | 2                                                                                                        | 3                                                     | 4                                              |
|----------|--------------|----------------------------------------------------------------------------------------------------------|-------------------------------------------------------|------------------------------------------------|
|          |              | OFFENCE.                                                                                                 | Whether the police may arrest without warrant or not. | Whether a warrant is necessary for the arrest. |
| 414      |              | Assisting in concealment or disposal of stolen property knowing it to be stolen.                         | May arrest without warrant                            | Warrant                                        |
| 417      | Cheating ... | ...                                                                                                      | Shall not arrest without warrant                      | Warrant                                        |
| 418      |              | Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect. | Ditto ..                                              | Ditto                                          |
| 419      |              | Cheating by personation                                                                                  | May arrest without warrant                            | Ditto                                          |

PROPERTY—(continued.)

Property—(continued.)

|                              | 6                            | 7                                                                 | 8                                                                                   |
|------------------------------|------------------------------|-------------------------------------------------------------------|-------------------------------------------------------------------------------------|
| Whether compoundable or not. | Whether compoundable or not. | Punishment under the Indian Penal Code.                           | By what Court triable.                                                              |
| Not compoundable.            | Not compoundable.            | Imprisonment of either description for 3 years, or fine, or both. | Court of Session, Presidency Magistrate or Magistrate of the first or second class. |

g.

|     |                   |                                                                  |                                                                                    |
|-----|-------------------|------------------------------------------------------------------|------------------------------------------------------------------------------------|
| ... | Not compoundable. | Imprisonment of either description for 1 year, or fine, or both  | Presidency Magistrate or Magistrate of the first or second class.                  |
| ... | Ditto             | Imprisonment of either description for 3 years, or fine, or both | Court of Session Presidency Magistrate or Magistrate of the first or second class. |
| .   | Ditto             | Ditto ...                                                        | Ditto.                                                                             |

| 1                   | 2                                                                                                                                                                                        | 3                                                    | 4                                                                            |
|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|------------------------------------------------------------------------------|
| SECTION.            | OFFENCE.                                                                                                                                                                                 | Whether the police may arrest without warrant or not | Whether a warrant is issued, and if so, in what manner in the first instance |
| 420                 | Cheating and, thereby dishonestly inducing delivery of property, or the making, alteration or destruction of a valuable security                                                         | May arrest without warrant.                          | Warrant                                                                      |
| Of Fraudulent Deeds |                                                                                                                                                                                          |                                                      |                                                                              |
| 421                 | Fraudulent removal or concealment of property, &c, to prevent distribution among creditors                                                                                               | Shall not arrest without warrant                     | Warrant                                                                      |
| 422                 | Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.                                                                                | Ditto                                                | Ditto                                                                        |
| 423                 | Fraudulent execution of deed of transfer containing a false statement of consideration.                                                                                                  | Ditto                                                | Ditto                                                                        |
| 424                 | Fraudulent removal or concealment of property, of himself, or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled. | Ditto                                                | Ditto                                                                        |

INSTR. PROPERTY—(continued.)  
(continued.)

| 5                           | 6                                    | 7                                                             | 8                                                                                         |
|-----------------------------|--------------------------------------|---------------------------------------------------------------|-------------------------------------------------------------------------------------------|
| Whether<br>liable or<br>not | Whether<br>compound-<br>able or not. | Punishment under the<br>Indian Penal Code.                    | By what Court.<br>triable.                                                                |
| Not liable                  | Not com-<br>poundable.               | Imprisonment of either<br>description for 7 years<br>and fine | Court of Session,<br>Presidency Ma-<br>gistrate, or Ma-<br>gistrate of the<br>first class |

Position of Property.

|               |                        |                                                                        |                                                                                   |
|---------------|------------------------|------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| Not liable .. | Not com-<br>poundable. | Imprisonment of either<br>description for 2 years,<br>or fine, or both | Presidency Ma-<br>gistrate, or Ma-<br>gistrate of the<br>first or second<br>class |
| Ditto ...     | Ditto                  | Ditto                                                                  | Ditto                                                                             |
| Ditto ..      | Ditto ..               | Ditto                                                                  | Ditto.                                                                            |
| Ditto ..      | Ditto                  | Ditto                                                                  | Ditto.                                                                            |

| 1<br>SECTION. | 2<br>OFFENCE.                                                                                                                                                      | 3<br>Whether the police may arrest without warrant or not | 4<br>Whether a warrant may be issued by a Magistrate or a District Judge or shall be issued by a Magistrate or a District Judge in the first instance |
|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| 431           | Mischief by injury to public road, bridge, navigable river, or navigable channel, and rendering it impassable or less safe for travelling or conveying property    | May arrest without warrant                                | Warrant                                                                                                                                               |
| 432           | Mischief by causing inundation or obstruction to public drainage attended with damage                                                                              | Ditto                                                     | Ditto                                                                                                                                                 |
| 433           | Mischief by destroying or moving or rendering less useful a light-house or seamark, or by exhibiting false rights                                                  | Ditto                                                     | Ditto                                                                                                                                                 |
| 434           | Mischief by destroying or moving, &c, a land-mark fixed by public authority.                                                                                       | Shall not arrest without warrant                          | Ditto                                                                                                                                                 |
| 435           | Mischief by fire or explosive substance with intent to cause damage to amount of 100 Rupees or upwards, or, in case of agricultural produce, 10 Rupees or upwards. | May arrest without warrant                                | Ditto                                                                                                                                                 |

— 1. 1  
 AGAINST PROPERTY—(continued).

(continued.)

| 5                                  | 6                                   | 7                                                                       | 8                                                                                                               |
|------------------------------------|-------------------------------------|-------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|
| Whether<br>compoundable or<br>not. | Whether<br>compound-<br>able or not | Punishment under the<br>Indian Penal Code.                              | By what Court<br>triable                                                                                        |
| Not compoundable ..                | Not com-<br>poundable               | Imprisonment of either<br>description for 5<br>years, or fine, or both. | Court of Session,<br>Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class,<br>Ditto |
| Ditto                              | Ditto                               | Ditto ..                                                                | Ditto                                                                                                           |
| Ditto                              | Ditto                               | Imprisonment of either<br>description for 7<br>years, or fine, or both. | Court of Session,<br>Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class,<br>Ditto |
| Ditto                              | Ditto                               | Imprisonment of either<br>description for 1 year,<br>or fine, or both   | Court of Session,<br>Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class,<br>Ditto |
| Ditto                              | Ditto                               | Imprisonment of either<br>description for 7 years<br>and fine           | Court of Session,<br>Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class,<br>Ditto |



CHAPTER XVII.—OFFENCES  
Of Mischief

| SECTION. | 1 | 2                                                                                             | 3                                                     | 4                                                                           |
|----------|---|-----------------------------------------------------------------------------------------------|-------------------------------------------------------|-----------------------------------------------------------------------------|
|          |   | OFFENCE.                                                                                      | Whether the police may arrest without warrant or not. | Whether a warrant or a summons shall ordinarily issue in the first instance |
| 36       |   | Mischief by fire or explosive substance with intent to destroy a house &c.                    | May arrest without warrant.                           | Warrant.                                                                    |
| 7        |   | Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden. | Ditto ...                                             | Ditto                                                                       |
| 3        |   | The mischief described in the last section when committed by fire or any explosive substance. | Ditto ...                                             | Ditto                                                                       |
|          |   | Running vessel ashore with intent to commit theft, &c.                                        | Ditto ..                                              | Ditto                                                                       |
|          |   | Mischief committed after preparation made for causing death, or hurt, &c                      | Ditto ...                                             | Ditto                                                                       |

AGAINST PROPERTY—(continued).

—(concluded)

| 5                       | 6                            | 7                                                                                     | 8                                                                        |
|-------------------------|------------------------------|---------------------------------------------------------------------------------------|--------------------------------------------------------------------------|
| Whether bailable or not | Whether compoundable or not. | Punishment under the Indian Penal Code.                                               | By what Court triable.                                                   |
| Not bailable.           | Not compoundable.            | Transportation for life, or imprisonment of either description for 10 years and fine. | Court of Session.                                                        |
| Ditto ..                | Ditto .                      | Imprisonment of either description for 10 years and fine.                             | Ditto.                                                                   |
| Ditto ..                | Ditto .                      | Transportation for life, or imprisonment of either description for 10 years and fine. | Ditto                                                                    |
| Ditto .                 | Ditto ..                     | Imprisonment of either description for 10 years and fine.                             | Ditto.                                                                   |
| Ditto .                 | Ditto .                      | Imprisonment of either description for 5 years and fine                               | Court of Session, Presidency Magistrate, or Magistrate of the 1st class. |

| SECTION. | OFFENCE.                                                                                        | Whether the police may arrest without warrant or not | Whether a warrant shall be issued by the police |
|----------|-------------------------------------------------------------------------------------------------|------------------------------------------------------|-------------------------------------------------|
| 447      | Criminal trespass ... ..                                                                        | May arrest without warrant                           | Summons                                         |
| 448      | House-trespass ... ..                                                                           | Ditto ..                                             | Warrant                                         |
| 449      | House-trespass in order to the commission of an offence punishable with death                   | Ditto ..                                             | Ditto                                           |
| 450      | House-trespass in order to the commission of an offence punishable with transportation for life | Ditto ..                                             | Ditto                                           |
| 451      | House-trespass in order to the commission of an offence punishable with imprisonment.           | Ditto ..                                             | Ditto                                           |
|          | If the offence is theft...                                                                      | Ditto ..                                             | Ditto                                           |

## AGAINST PROPERTY—(continued).

trespass.

| 5                        | 6                           | 7                                                                                | 8                                                                                   |
|--------------------------|-----------------------------|----------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
| Whether bailable or not. | Whether compoundable or not | Punishment under the Indian Penal Code                                           | By what Court triable.                                                              |
| Bailable ..              | Compoundable                | Imprisonment of either description for 3 months, or fine of 500 rupees, or both. | Any Magistrate.                                                                     |
| Ditto .                  | Ditto                       | Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both  | Ditto                                                                               |
| Not bailable             | Not compoundable            | Transportation for life, or rigorous imprisonment for 10 years and fine.         | Court of Session.                                                                   |
| Ditto ..                 | Ditto                       | Imprisonment of either description for 10 years and fine                         | Ditto.                                                                              |
| Bailable                 | Ditto                       | Imprisonment of either description for 2 years and fine                          | Any Magistrate.                                                                     |
| Not bailable             | Ditto ..                    | Imprisonment of either description for 7 years and fine.                         | Court of Session, Presidency Magistrate or Magistrate of the first or second class. |

CHAPTER XVII.—OFFENCES  
Of Criminal Trespass

| 1        | 2                                                                                                               | 3                                                    | 4                                               |
|----------|-----------------------------------------------------------------------------------------------------------------|------------------------------------------------------|-------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                        | Whether the police may arrest without warrant or not | Whether a warrant may be issued by a magistrate |
| 452      | House-trespass, having made preparation for causing hurt, assault, &c                                           | May arrest without warrant                           | Warrant                                         |
| 453      | Lurking house-trespass or house-breaking.                                                                       | Ditto                                                | Ditto                                           |
| 454      | Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment. | Ditto                                                | Ditto                                           |
|          | If the offence is theft                                                                                         | Ditto                                                | Ditto                                           |
| 455      | Lurking house-trespass or house-breaking after preparation made for causing hurt, assault, &c.                  | Ditto                                                | Ditto                                           |

AINST PROPERTY—(continued.)

(continued.)

| 5                             | 6                                   | 7                                                              | 8                                                                                                  |
|-------------------------------|-------------------------------------|----------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not | Whether<br>compound-<br>able or not | Punishment under the<br>Indian Penal Code                      | By what Court<br>triable                                                                           |
| Not bailable.                 | Not com-<br>poundable.              | Imprisonment of either<br>description for 7 years<br>and fine  | Court of Session,<br>Presidency<br>Magistrate, or<br>Magistrate of<br>the first or<br>second class |
| Ditto ..                      | Ditto                               | Imprisonment of either<br>description for 2 years<br>and fine  | Presidency Ma-<br>gistrate, or Ma-<br>gistrate of the<br>first or second<br>class                  |
| Ditto                         | Ditto                               | Imprisonment of either<br>description for 3 years<br>and fine  | Court of Session,<br>Presidency<br>Magistrate or<br>Magistrate of<br>the first or<br>second class  |
| Ditto                         | Ditto                               | Imprisonment of either<br>description for 10<br>years and fine | Ditto                                                                                              |
| Ditto                         | Ditto                               | Ditto                                                          | Court of Session,<br>Presidency<br>Magistrate, or<br>Magistrate of<br>the first class              |

CHAPTER XVII—Off  
Of Criminal Tr

| 1       | 2                                                                                                                       | 3                                                    | 4                                 |
|---------|-------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|-----------------------------------|
| SECTION | OFFENCE.                                                                                                                | Whether the police may arrest without warrant or not | Whether warrant shall only in the |
| 456     | Lurking house-trespass or house-breaking by night.                                                                      | May arrest without warrant.                          | Warr                              |
| 457     | Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment | Ditto                                                | Ditto                             |
|         | If the offence is theft . . .                                                                                           | Ditto                                                | Ditto                             |
| 458     | Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.                         | Ditto                                                | Ditto                             |
| 459     | Grievous hurt caused whilst committing lurking house-trespass or house-breaking.                                        | Ditto                                                | Ditto                             |

## AGAINST PROPERTY—(continued)

(continued)

| 5                             | 6                                   | 7                                                                                             | 8                                                                                                   |
|-------------------------------|-------------------------------------|-----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not | Whether<br>compound-<br>able or not | Punishment under the<br>Indian Penal Code                                                     | By what Court<br>triable.                                                                           |
| Not bailable                  | Not com-<br>poundable               | Imprisonment of either<br>description for 3<br>years and fine.                                | Court of Session,<br>Presidency<br>Magistrate, or<br>Magistrate of<br>the first or<br>second class. |
| Ditto                         | Ditto                               | Imprisonment of either<br>description for 5<br>years, and fine                                | Ditto                                                                                               |
| Ditto                         | Ditto                               | Imprisonment of either<br>description for 14<br>years and fine                                | Ditto                                                                                               |
| Ditto                         | Ditto                               | Ditto                                                                                         | Court of Session,<br>Presidency<br>Magistrate, or<br>Magistrate of<br>the first class               |
| Ditto                         | Ditto                               | Transportation for life,<br>or imprisonment of<br>either description for<br>10 years and fine | Court of Session.                                                                                   |



SCH. II.—STATEMENT OF OFFENCES.

CHAPTER XVII.—*Offences  
Of Criminal Trespass*

| 2                                                                                                                             | 3                                                     | 4                                                                 |
|-------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|-------------------------------------------------------------------|
| OFFENCE                                                                                                                       | Whether the police may arrest without warrant or not. | Whether warrant or summons shall ordinarily issue in the instance |
| Death or grievous hurt caused by one of several persons jointly concerned in house breaking by night, &c.                     | May arrest without warrant                            | Warrant                                                           |
| Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.                    | Ditto                                                 | Ditto                                                             |
| Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same. | Ditto                                                 | Ditto                                                             |

CHAPTER XVIII.—*Offences relating to Documents*

|             |                                   |         |
|-------------|-----------------------------------|---------|
| Forgery ... | Shall not arrest without warrant. | Warrant |
|-------------|-----------------------------------|---------|

## AGAINST PROPERTY—(continued.)

(concluded.)

| 5                              | 6                                   | 7                                                                                             | 8                                                                                                     |
|--------------------------------|-------------------------------------|-----------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not. | Whether<br>compound-<br>able or not | Punishment under the<br>Indian Penal Code.                                                    | By what Court<br>triable                                                                              |
| bailable                       | Not com-<br>poundable               | Transportation for life,<br>or imprisonment of<br>either description for<br>10 years and fine | Court of Session.                                                                                     |
| able .                         | Ditto                               | Imprisonment of either<br>description for 2<br>years, or fine, or both                        | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class                      |
| to                             | Ditto                               | Imprisonment of either<br>description for 3<br>years, or fine, or both                        | Court of Session,<br>Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class |

## AGAINST TRADE OR PROPERTY MARKS.

|      |                        |                                                                        |                                                                                          |
|------|------------------------|------------------------------------------------------------------------|------------------------------------------------------------------------------------------|
| able | Not com-<br>poundable. | Imprisonment of either<br>description for 2<br>years, or fine, or both | Court of Session,<br>Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first class |
|------|------------------------|------------------------------------------------------------------------|------------------------------------------------------------------------------------------|

SCH. II.—STATEMENT OF OFFENCES.

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS.

| OFFENCE.                                                                                                                   | Whether the police may arrest without warrant or not | Whether a warrant or summons shall ordinarily be issued in the first instance |
|----------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|-------------------------------------------------------------------------------|
| Forgery of a record of a Court of Justice or of a Register of Births, &c, kept by a public servant.                        | Shall not arrest without warrant                     | Warrant                                                                       |
| Forgery of a valuable security, will, or authority to make or transfer any valuable security, or to receive any money, &c. | Ditto                                                | Ditto                                                                         |
| When the valuable security is a promissory note of the Government of India                                                 | May arrest without warrant.                          | Ditto                                                                         |
| Forgery for the purpose of cheating                                                                                        | Shall not arrest without warrant                     | Ditto                                                                         |
| Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose  | Ditto                                                | Ditto                                                                         |
| Using as genuine a forged document which is known to be forged.                                                            | Ditto                                                | Ditto                                                                         |

## AND TO TRADE OR PROPERTY MARKS—(continued.)

| 5                              | 6                                   | 7                                                                                            | 8                                                                                        |
|--------------------------------|-------------------------------------|----------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not. | Whether<br>compound-<br>able or not | Punishment under the<br>Indian Penal Code                                                    | By what Court<br>triable                                                                 |
| Not bailable                   | Not com-<br>poundable               | Imprisonment of either<br>description for 7<br>years and fine                                | Court of Session                                                                         |
| Ditto                          | Ditto                               | Transportation for life<br>or imprisonment of<br>either description for<br>10 years and fine | Ditto.                                                                                   |
| Ditto ..                       | Ditto ..                            | Ditto                                                                                        | Ditto                                                                                    |
| Ditto ...                      | Ditto                               | Imprisonment of either<br>description for 7 years<br>and fine                                | Court of Session,<br>Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first class |
| Bailable                       | Ditto                               | Imprisonment of either<br>description for 3 years<br>and fine                                | Ditto                                                                                    |
| Ditto                          | Ditto                               | Punishment for forgery<br>of such document                                                   | Same Court as<br>that by which<br>the forgery is<br>triable.                             |

## CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS.

| 1       | 2                                                                                                                                                                               | 3                                                    | 4                                                    |
|---------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|------------------------------------------------------|
| SECTION | OFFENCE.                                                                                                                                                                        | Whether the police may arrest without warrant or not | Whether the police may arrest without warrant or not |
|         | If the document is one of the description mentioned in section 467 of the Indian Penal Code                                                                                     | Shall not arrest without warrant                     | Warrant                                              |
| 475     | " " " "                                                                                                                                                                         | Ditto                                                | Ditto                                                |
|         | Indian Penal Code, or possessing counterfeit-marked material                                                                                                                    |                                                      |                                                      |
| 476     | Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit-marked material | Ditto ..                                             | Ditto                                                |
| 477     | Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c                                                                               | Ditto ..                                             | Ditto                                                |
| 477A    | Falsification of accounts ..                                                                                                                                                    | Ditto ..                                             | Ditto                                                |

## TRADE OR PROPERTY MARKS—(continued.)

| 6                           | 7                                                                                   | 8                     |
|-----------------------------|-------------------------------------------------------------------------------------|-----------------------|
| Whether compoundable or not | Punishment under the Indian Penal Code.                                             | By what Court triable |
| Not compoundable.           | Transportation for life, or imprisonment of either description for 7 years and fine | Court of Session      |
| Ditto                       | Ditto ..                                                                            | Ditto                 |
| Ditto                       | Imprisonment of either description for 7 years and fine                             | Ditto.                |
| Ditto                       | Transportation for life, or imprisonment of either description for 7 years and fine | Ditto                 |
| Ditto                       | Ditto                                                                               | Ditto                 |

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS  
Of Trade

| 1       | 2                                                                                                                                              | 3                                                     | 4                                        |
|---------|------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|------------------------------------------|
| SECTION | OFFENCE                                                                                                                                        | Whether the police may arrest without warrant or not. | Whether the warrant is necessary or not. |
| 482     | Using a false trade or property-mark with intent to deceive or injure any person.                                                              | Shall not arrest without warrant                      | Warrant                                  |
| 483     | Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.                                                | Ditto                                                 | Ditto                                    |
| 484     | Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.                                                | Ditto                                                 | Summons                                  |
| 485     | Fraudulently making or having possession of any die, plate or other instrument for counterfeiting any public or private property or trade mark | Ditto                                                 | Ditto                                    |
| 486     | Knowingly selling goods marked with a counterfeit property or trade mark.                                                                      | Ditto                                                 | Ditto                                    |

## TO TRADE OR PROPERTY MARKS—(continued.)

Property Marks.

| 5                            | 6                                   | 7                                                                       | 8                                                                                     |
|------------------------------|-------------------------------------|-------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| Whether<br>liable or<br>not. | Whether<br>compound-<br>able or not | Punishment under the<br>Indian Penal Code                               | By what Court<br>triable                                                              |
| liable .                     | Not com-<br>poundable               | Imprisonment of either<br>description for one<br>year, or fine, or both | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class      |
| Ditto .                      | Ditto                               | Imprisonment of either<br>description for 2<br>years, or fine, or both  | Ditto                                                                                 |
| Ditto .                      | Ditto                               | Imprisonment of either<br>description for 3 years<br>and fine           | Court of Session,<br>Presidency<br>Magistrate or<br>Magistrate of<br>the first class. |
| Ditto                        | Ditto                               | Imprisonment of either<br>description for 3<br>years, or fine, or both  | Ditto                                                                                 |
| Ditto                        | Ditto                               | Imprisonment of either<br>description for 1 year,<br>or fine, or both   | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class      |



CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS  
Of Trade and Property

| SECTION | 2                                                                                                                                                                            | 3                                                    | 4                                      |
|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|----------------------------------------|
|         | OFFENCE                                                                                                                                                                      | Whether the police may arrest without warrant or not | Whether a warrant may be issued or not |
| 187     | Fraudulently making a false mark upon any package or receptacle containing goods with intent to cause it to be believed that it contains goods which it does not contain, &c | Shall not arrest without warrant.                    | Summons                                |
| 188     | Making use of any such false mark                                                                                                                                            | Ditto                                                | Ditto                                  |
| 189     | Removing, destroying or defacing any property-mark with intent to cause injury                                                                                               | Ditto                                                | Ditto                                  |

## Of Currency

|     |                                                                     |                            |         |
|-----|---------------------------------------------------------------------|----------------------------|---------|
| 190 | Counterfeiting currency-notes or bank notes.                        | May arrest without warrant | Warrant |
| 191 | Using as genuine forged or counterfeit currency-notes or bank-notes | Ditto                      | Ditto   |

TO TRADE OR PROPERTY MARKS—(continued.)  
 Marks—(concluded)

| 5                             | 6                                   | 7                                                                                             | 8                                                                                                   |
|-------------------------------|-------------------------------------|-----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not | Whether<br>compound-<br>able or not | Punishment under the<br>Indian Penal Code                                                     | By what Court<br>triable.                                                                           |
| Bailable ..                   | Not com-<br>poundable               | Imprisonment of either<br>description for 3<br>years, or fine, or both.                       | Court of Session,<br>Presidency<br>Magistrate, or<br>Magistrate of<br>the first or<br>second class. |
| Ditto ..                      | Ditto                               | Ditto                                                                                         | Ditto.                                                                                              |
| Ditto .                       | Ditto                               | Imprisonment of either<br>description for 1 year,<br>or fine, or both                         | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class                    |
| and Bank-notes                |                                     |                                                                                               |                                                                                                     |
| Not bailable                  | Not com-<br>poundable               | Transportation for life,<br>or imprisonment of<br>either description for<br>10 years and fine | Court of Session.                                                                                   |
| Ditto .                       | Ditto                               | Ditto                                                                                         | Ditto.                                                                                              |

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS  
Of Currency &c

| 1        | 2                                                                                                        | 3                                                     | 4                                                                 |
|----------|----------------------------------------------------------------------------------------------------------|-------------------------------------------------------|-------------------------------------------------------------------|
| SECTION. | OFFENCE                                                                                                  | Whether the police may arrest without warrant or not. | Whether a warrant for arrest shall only be in the first instance. |
| 480c     | Possession of forged or counterfeit currency-notes or bank-notes                                         | May arrest without warrant                            | Warrant                                                           |
| 480d     | Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes | Ditto                                                 | Ditto                                                             |

CHAPTER XIX.—CRIMES

|    |                                                                                                                                                               |                                  |         |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|---------|
| 90 | Being bound by contract to render personal service during a voyage or journey or to convey or guard any property or person and voluntarily omitting to do so. | Shall not arrest without warrant | Summons |
| 91 | Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind, or disease, and voluntarily omitting to do so       | Ditto                            | Ditto   |

TO TRADE OR PROPERTY MARKS—(concluded).

Bank-notes.

| 6                            | 7                                    | 8                                                                                              |                          |
|------------------------------|--------------------------------------|------------------------------------------------------------------------------------------------|--------------------------|
| Whether<br>liable or<br>not. | Whether<br>compound-<br>able or not. | Punishment under the<br>Indian Penal Code.                                                     | By what Court<br>triable |
| Not liable.                  | Not com-<br>poundable.               | Imprisonment of either<br>description for 7 years,<br>or fine, or both                         | Court of Session.        |
| Not liable.                  | Ditto                                | Transportation for life,<br>or imprisonment of<br>either description for<br>10 years and fine. | Ditto.                   |

EACH OF CONTRACTS OF SERVICE.

|                |                   |                                                                                         |                                                                                   |
|----------------|-------------------|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| Not liable ... | Compound-<br>able | Imprisonment of either<br>description for 1<br>month, or fine of 100<br>Rupees, or both | Presidency Ma-<br>gistrate, or Ma-<br>gistrate of the<br>first or second<br>class |
| Ditto          | Ditto             | Imprisonment of either<br>description for 2<br>months or fine of 200<br>Rupees or both  | Ditto                                                                             |

## CHAPTER XIX.—CRIMINAL BREACH

| 1        | 2                                                                                                                                                                                                                                   | 3                                                     | 4                                                                                     |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|---------------------------------------------------------------------------------------|
| SECTION. | OFFENCE.                                                                                                                                                                                                                            | Whether the police may arrest without warrant or not. | Whether warrant is issued, and if so, whether ordinary or special, and in what court. |
| 492      | Being bound by contract to render personal service for a certain period at a distant place to which the employee is conveyed at the expense of the employer, and voluntarily deserting the service or refusing to perform the duty. | Shall not arrest without warrant.                     | Summons.                                                                              |

## CHAPTER XX.—OFFENCES

| SECTION. | OFFENCE.                                                                                                                                            | Whether the police may arrest without warrant. | Whether warrant is issued, and if so, whether ordinary or special, and in what court. |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|---------------------------------------------------------------------------------------|
| 493      | A man by deceit causing a woman not lawfully married to him, to believe that she is lawfully married to him and to cohabit with him in that belief. | Shall not arrest without warrant.              | Warrant.                                                                              |
| 494      | Marrying again during the lifetime of a husband or wife.                                                                                            | Ditto ..                                       | Ditto ..                                                                              |
| 495      | Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.                                   | Ditto ..                                       | Ditto ..                                                                              |
| 496      | A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.                    | Ditto ...                                      | Ditto ..                                                                              |

## TRACTS OF SERVICE—(continued.)

| 5                              | 6                                   | 7                                                                                                           | 8                                                                                 |
|--------------------------------|-------------------------------------|-------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not. | Whether<br>compound-<br>able or not | Punishment under the<br>Indian Penal Code                                                                   | By what Court<br>triable.                                                         |
| bailable ..                    | Compound-<br>able                   | Imprisonment of either<br>description for 1<br>month, or fine of<br>double the expense<br>incurred, or both | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class. |

## OFFENCES RELATING TO MARRIAGE.

|              |                        |                                                                 |                   |
|--------------|------------------------|-----------------------------------------------------------------|-------------------|
| bailable     | Not com-<br>poundable. | Imprisonment of either<br>description for 10<br>years and fine  | Court of Session. |
| bailable ... | Ditto                  | Imprisonment of either<br>description for 7 years<br>and fine   | Ditto.            |
| bailable     | Ditto                  | Imprisonment of either<br>description for 10<br>years and fine. | Ditto.            |
| bailable     | Ditto                  | Imprisonment of either<br>description for 7 years<br>and fine   | Ditto.            |

| SECTION.    | OFFENCE                                                                                                | Whether the police may arrest without warrant or not. | Whether a warrant or summons shall ordinarily be issued in the case. |
|-------------|--------------------------------------------------------------------------------------------------------|-------------------------------------------------------|----------------------------------------------------------------------|
| 497         | Adultery . . . . .                                                                                     | Shall not arrest without warrant                      | Warrant                                                              |
| 498         | Enticing or taking away or detaining with a criminal intent a married woman.                           | Ditto ..                                              | Ditto                                                                |
| CHAPTER XX. |                                                                                                        |                                                       |                                                                      |
| 500         | Defamation . . . . .                                                                                   | Shall not arrest without warrant                      | Warrant                                                              |
| 501         | Printing or engraving matter knowing it to be defamatory.                                              | Ditto ..                                              | Ditto                                                                |
| 502         | Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter. | Ditto .                                               | Ditto                                                                |

## PUNISHMENT FOR OFFENCES RELATING TO MARRIAGE—(continued)

| 5                           | 6                           | 7                                                                | 8                                                                          |
|-----------------------------|-----------------------------|------------------------------------------------------------------|----------------------------------------------------------------------------|
| Whether compoundable or not | Whether compoundable or not | Punishment under the Indian Penal Code                           | By what Court triable.                                                     |
| Compoundable.               | Compoundable.               | Imprisonment of either description for 5 years or fine, or both  | Court of Session, Presidency Magistrate, or Magistrate of the first class. |
| Not compoundable.           | Ditto ..                    | Imprisonment of either description for 2 years, or fine, or both | Presidency Magistrate, or Magistrate of the first or second class.         |

## PUNISHMENT FOR OFFENCES RELATING TO MARRIAGE.

|                      |               |                                                    |                                                                            |
|----------------------|---------------|----------------------------------------------------|----------------------------------------------------------------------------|
| Compoundable ...     | Compoundable. | Simple imprisonment for 2 years, or fine, or both. | Court of Session, Presidency Magistrate, or Magistrate of the first class. |
| Not compoundable ..  | Ditto ..      | Ditto ... ..                                       | Ditto                                                                      |
| Not compoundable ... | Ditto ...     | Ditto .. .                                         | Ditto                                                                      |



## CHAPTER XXII.—CRIMINAL INTIMIDATION.

| 1<br>SECTION. | 2<br>OFFENCE.                                                                                                   | 3<br>Whether the police may arrest without warrant or not | 4<br>Whether a warrant or summons shall ordinarily be issued in that instance |
|---------------|-----------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|-------------------------------------------------------------------------------|
| 504           | Insult intended to provoke a breach of the peace.                                                               | Shall not arrest without warrant.                         | Warrant                                                                       |
| 505           | False statement, rumour, &c., circulated with intent to cause mutiny or offence against the public peace.       | Ditto ..                                                  | Ditto                                                                         |
| 506           | Criminal intimidation ...                                                                                       | Ditto .                                                   | Ditto "                                                                       |
|               | If threat be to cause death or grievous hurt, &c.                                                               | Ditto .                                                   | Ditto "                                                                       |
| 507           | Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes. | Ditto ..                                                  | Ditto "                                                                       |
| 508           | Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.            | Ditto .                                                   | Ditto "                                                                       |

## ULT AND ANNOYANCE.

| 5                              | 6                                    | 7                                                                                                            | 8                                                                                         |
|--------------------------------|--------------------------------------|--------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|
| Whether<br>bailable or<br>not. | Whether<br>compound-<br>able or not. | Punishment under the<br>Indian Penal Code.                                                                   | By what Court<br>triable.                                                                 |
| Bailable ..                    | Compound-<br>able.                   | Imprisonment of either<br>description for 2<br>years, or fine, or both                                       | Any Magistrate.                                                                           |
| Not bailable                   | Not com-<br>poundable.               | Ditto .                                                                                                      | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first class.                      |
| Bailable ...                   | Compound-<br>able.                   | Ditto .                                                                                                      | Ditto.                                                                                    |
| Ditto ...                      | Not com-<br>poundable.               | Imprisonment of either<br>description for 7<br>years, or fine, or both                                       | Court of Session,<br>Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first class. |
| Ditto ...                      | Ditto ...                            | Imprisonment of either<br>description for 2 years<br>in addition to the<br>punishment under<br>above section | Ditto.                                                                                    |
| Ditto ...                      | Ditto ..                             | Imprisonment of either<br>description for 1 year,<br>or fine, or both.                                       | Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or<br>class.                |

## CHAPTER XXII.—CRIMINAL INTIMIDATION.

| 1        | 2                                                                                                 | 3                                                    | 4                                                                           |
|----------|---------------------------------------------------------------------------------------------------|------------------------------------------------------|-----------------------------------------------------------------------------|
| SECTION. | OFFENCE.                                                                                          | Whether the police may arrest without warrant or not | Whether a warrant or a summons shall ordinarily issue in the first instance |
| 509      | Uttering any word or making any gesture intended to insult the modesty of a woman, &c.            | Shall not arrest without warrant.                    | Warrant.                                                                    |
| 510      | Appearing in a public place, &c, in a state of intoxication, and causing annoyance to any person. | Ditto ...                                            | Ditto .                                                                     |

## CHAPTER XXIII.—ATTEMPTS.

|     |                                                                                                                                                        |                                                                                                  |                                                                                                 |
|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| 511 | Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence. | According as the offence is one in respect of which the police may arrest without warrant or not | According as the offence is one in respect of which a summons or warrant shall ordinarily issue |
|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|

## RESULT AND ANNOYANCE—(continued).

| 5                        | 6                           | 7                                                               | 8                                                       |
|--------------------------|-----------------------------|-----------------------------------------------------------------|---------------------------------------------------------|
| Whether bailable or not. | Whether compoundable or not | Punishment under the Indian Penal Code                          | By what Court triable                                   |
| Bailable ...             | Not compoundable.           | Simple imprisonment for 1 year, or fine, or both.               | Presidency Magistrate or Magistrate of the first class. |
| Ditto ..                 | Ditto .                     | Simple imprisonment for 24 hours, or fine of 10 Rupees, or both | Any Magistrate.                                         |

## TO COMMIT OFFENCES.

|                                                                           |                                                         |                                                                                                                                           |                                                     |
|---------------------------------------------------------------------------|---------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|
| According as the offence contemplated by the offender is bailable or not. | Compoundable when the offence attempted is compoundable | Transportation or imprisonment not exceeding half of the longest term, and of any description, provided for the offence, or fine, or both | The Court by which the offence attempted is triable |
|---------------------------------------------------------------------------|---------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|

| 1        | 2                                                                                | 3                                                     | 4                                                                         |
|----------|----------------------------------------------------------------------------------|-------------------------------------------------------|---------------------------------------------------------------------------|
| SECTION. | OFFENCE.                                                                         | Whether the police may arrest without warrant or not. | Whether a warrant or summons shall ordinarily issue in the first instance |
|          | If punishable with death, transportation or imprisonment for 7 years or upwards. | May arrest without warrant                            | Warrant.                                                                  |
|          | If punishable with imprisonment for 3 years and upwards but less than seven.     | Ditto ...                                             | Ditto                                                                     |
|          | If punishable with imprisonment for one year and upwards, but less than 2 years. | Shall not arrest without warrant.                     | Summons                                                                   |
|          | If punishable with imprisonment for less than one year, or with fine only.       | Ditto ...                                             | Ditto                                                                     |

## OTHER LAWS.

| 5<br>Whether<br>bailable or<br>not,                                                                                     | 6<br>Whether<br>compound-<br>ble or not, | 7<br>Punishment under<br>the Indian Penal<br>Code | 8<br>By what Court<br>triable,                                                                        |
|-------------------------------------------------------------------------------------------------------------------------|------------------------------------------|---------------------------------------------------|-------------------------------------------------------------------------------------------------------|
| Not bailable.                                                                                                           | Not com-<br>poundable.                   | ..                                                | Court of Session.                                                                                     |
| Ditto ..<br>Except in<br>cases under<br>the Indian<br>Arms Act,<br>1878, sec-<br>tion 10,<br>which shall<br>be bailable | Ditto .                                  |                                                   | Court of Session,<br>Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first class              |
| Bailable ...                                                                                                            | Ditto .                                  | ..                                                | Court of Session,<br>Presidency Ma-<br>gistrate or Ma-<br>gistrate of the<br>first or second<br>class |
| Ditto ..                                                                                                                | Ditto ..                                 |                                                   | Any Magistrate.                                                                                       |



## SCHEDULE III.—(continued)

## ORDINARY POWERS OF PROVINCIAL MAGISTRATES—(contd.)

I.—*Ordinary Powers of a Magistrate of the Third Class*—(continued.)

- (18) Power to take cognizance of offence, although committed by European British subject, and to issue process returnable before a Magistrate having jurisdiction, section 145
- (17) Power to apply to District Magistrate to issue commission for examination of witness, section 506 (2).
- (18) Power to recover forfeited bond for appearance before Magistrate's Court, section 514
- (19) Power to make order as to disposal of property, section 517.
- (20) Power to sell perishable property of a suspected character, section 523.

II.—*Ordinary Powers of a Magistrate of the Second Class.*

- (1) The ordinary powers of a Magistrate of the third class.
- (2) Power to order the police to investigate an offence in cases in which the Magistrate has jurisdiction to try or commit for trial, section 155
- (3) Power to postpone issue of process, section 202
- (4) Power to order destruction of libellous and other matter, section 521.

III.—*Ordinary Powers of a Magistrate of the First Class.*

- (1) The ordinary powers of a Magistrate of the second class
- (2) Power to issue search-warrant otherwise than in course of an inquiry, section 98.
- (3) Power to issue search-warrant for discovery of persons wrongfully confined, section 100.
- (4) Power to require security to keep the peace, section 107
- (5) Power to require security for good behaviour, section 109.
- (6) Power to discharge sureties, section 126.



## SCHEDULE III.—(continued.)

## ORDINARY POWERS OF PROVINCIAL MAGISTRATES—(contd.)

*III.—Ordinary Powers of a Magistrate of the First Class—(continued.)*

- (7) Power to make orders, &c., in possession cases, sections 145, 146 and 147.
- (8) Power to commit for trial, section 200.
- (9) Power to stop proceedings when no complainant, section 249
- (10) Power to make orders of maintenance, sections 488 and 489
- (11) Power to take evidence on commission, section 503
- (12) Power to recover penalty on forfeited bond, section 514.
- (13) Power to make order as to first offenders, section 562

*IV—Ordinary Powers of a Sub-divisional Magistrate.*

- (1) The ordinary powers of a Magistrate of the first class
- (2) Power to direct warrants to landholders, section 78
- (3) Power to require security for good behaviour, section 110
- (4) Power to make orders as to local nuisances, section 133
- (5) Power to make orders prohibiting repetitions of nuisance, section 143
- (6) Power to make orders under section 144.
- (7) Power to depute Subordinate Magistrate to make local inquiry, section 148.
- (8) Power to order police-investigation into cognizable case, section 156
- (9) Power to receive report of Police-officer and pass order, section 173
- (10) Power to hold inquests, section 174.
- (11) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.
- (12) Power to entertain complain's, section 190

## SCHEDULE III.—(continued.)

ORDINARY POWERS OF PROVINCIAL MAGISTRATES—(contd.)  
IV.—*Ordinary Powers of a Sub-divisional Magistrate—(concl'd.)*

- (13) Power to receive police-reports, section 190
- (14) Power to entertain cases without complaint, section 190
- (15) Power to transfer cases to a Subordinate Magistrate, section 192.
- (16) Power to pass sentence on proceedings recorded by a Subordinate Magistrate, section 349
- (17) Power to forward record of inferior Court to District Magistrate, section 433 (2)
- (18) Power to sell property alleged or suspected to have been stolen, &c, section 524
- (19) Power to withdraw cases other than appeals, and to try or refer them for trial, section 528.
- (20) Power to order released convicts to notify residence, section 505.

V.—*Ordinary Powers of a District Magistrate.*

- (1) The ordinary powers of a Sub-divisional Magistrate.
- (2) Power to require delivery of letters, telegrams, &c, section 95.
- (3) Power to issue search-warrants for documents in custody of postal or telegraph authorities, section 96
- (4) Power to require security for good behaviour in case of sedition, section 108
- (5) Power to discharge persons bound to keep the peace or to be of good behaviour section, 124
- (6) Power to cancel bond for keeping the peace, section 125.
- (7) Power to try summarily, section 260
- (8) Power to quash convictions in certain cases, section 350
- (9) Power to hear appeals from orders requiring security for good behaviour section 406
- (10) Power to hear or refer appeals from convictions by Magistrates of the second and third classes, section 407

SCHEDULE III.—(concluded.)

ORDINARY POWERS OF PROVINCIAL MAGISTRATES—(concluded.)

V.—*Ordinary Powers of a District Magistrate*—(concluded.)

- (11) Power to call for records, section 435
- (12) Power to order commitment, section 436.
- (13) Power to order inquiry into complaint dismissed or case if accused discharged, section 437
- (14) Power to report case to High Court, section 438
- (15) Power to try European British subjects, section 413
- (16) Power to sentence European British subject to more than three months imprisonment or one thousand Rupees fine, or both, section 440
- (17) Power to appoint person to be public prosecutor in particular case, section 442 (2)
- (18) Power to issue commission for examination of witness sections 503-506
- (19) Power to hear appeals from or revise orders passed under section 514, section 515
- (20) Power to compel restoration of abducted female, section 531

# SCHEDULE IV.

(See sections 37 and 38.)

## ADDITIONAL POWERS WITH WHICH PROVINCIAL MAGISTRATES MAY BE INVESTED.

POWERS WITH WHICH  
A MAGISTRATE OF  
THE FIRST CLASS  
MAY BE INVESTED

BY THE LO-  
CAL GOV-  
ERNMENT

- (1) Power to require security for good behaviour in case of sedition, section 108.
- (2) Power to require security for good behaviour, section 110
- (3) Power to make orders as to local nuisances, section 133
- (4) Power to make orders prohibiting repetitions of nuisances, section 143
- (5) Power to make orders under section 144
- (6) Power to hold inquests, section 174
- (7) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction section 186
- (8) Power to take cognizance of offences upon complaint section 187
- (9) Power to take cognizance of offences upon police-report section 190
- (10) Power to take cognizance of offences without complaint, section 190.

## SCHEDULE IV.—(continued.)

ADDITIONAL POWERS WITH WHICH PROVINCIAL MAGISTRAT  
MAY BE INVESTED—(continued.)

POWERS WITH WHICH  
A MAGISTRATE OF  
THE FIRST CLASS  
MAY BE INVESTED—  
(concl'd).

BY THE LO-  
CAL GOV-  
ERNMENT  
—*cl'd.*

- (11) Power to try summar section 2nd
- (12) Power to hear appeal from convictions Magistrates of the second and third class section 407.
- (13) Power to sell property alleged or suspected have been stolen. & section 521.
- (14) Power to order release convicts to notify residence, section 561
- (15) Power to try cases under section 1244 of the Indian Penal Code

BY THE  
DISTRICT  
MAGIS-  
TRATE.

- (1) Power to make order prohibiting repetition of nuisance section 143.
- (2) Power to make order under section 144
- (3) Power to hold inquest, section 174
- (4) Power to take cognizance of offences upon complaint, section 190
- (5) Power to take cognizance of offences upon police reports, section 191.
- (6) Power to transfer case section 192.

SCHEDULE IV.—(continued.)

ADDITIONAL POWERS WITH WHICH PROVINCIAL MAGISTRATES  
MAY BE INVESTED—(continued.)

POWERS WITH WHICH  
A MAGISTRATE OF  
THE SECOND CLASS  
MAY BE INVESTED

BY THE LO-  
CAL GOV-  
ERNMENT.

- (1) Power to pass sentences of whipping, section 39.
- (2) Power to make orders prohibiting repetitions of nuisances, section 143
- (3) Power to make orders under section 144
- (4) Power to hold inquests, section 174
- (5) Power to take cognizance of offences upon complaint, section 190 :
- (6) Power to take cognizance of offences upon police-reports, section 190 .
- (7) Power to take cognizance of offences without complaint, section 190.
- (8) Power to commit for trial, section 206 :
- (9) Power to make order as to first offenders, section 262

BY THE  
DISTRICT  
MAGIS-  
TRATE

- (1) Power to make orders prohibiting repetitions of nuisances, section 143
- (2) Power to make orders under section 144 .
- (3) Power to hold inquests, section 174
- (4) Power to take cognizance of offences upon complaint, section 190 :
- (5) Power to take cognizance of offences upon police-reports, section 190 .

SCHEDULE IV.—(concluded.)

ADDITIONAL POWERS WITH WHICH PROVINCIAL MAGISTRATE  
MAY BE INVESTED —(concluded.)

POWERS WITH WHICH  
A MAGISTRATE OF  
THE THIRD CLASS  
MAY BE INVESTED.

BY THE LO-  
CAL GOV-  
ERNMENT

- (1) Power to make orders prohibiting repetition of nuisances section 143;
- (2) Power to make orders under section 144;
- (3) Power to hold inquests section 174;
- (4) Power to take cognizance of offences upon complaint, section 190;
- (5) Power to take cognizance of offences upon police reports, section 190;
- (6) Power to commit to trial section 206

BY THE  
DISTRICT  
MAGIS-  
TRATE

- (1) Power to make orders prohibiting repetition of nuisances, section 143;
- (2) Power to make orders under section 144;
- (3) Power to hold inquests section 174;
- (4) Power to take cognizance of offences upon complaint, section 190;
- (5) Power to take cognizance of offences upon police reports, section 190

POWERS WITH WHICH  
SUB-DIVISIONAL  
MAGISTRATE MAY BE  
INVESTED.

BY THE LO-  
CAL GOV-  
ERNMENT.

- Power to call for records section 435

## SCHEDULE V.

(See section 554)

## FORMS.

## 1.—SUMMONS TO AN ACCUSED PERSON.

(See section 68)

To

of

WHEREAS your attendance is necessary to answer to a charge of  
 (state the offence), you are hereby required to appear  
 personally (or by pleader, as the case may be) before the (Magistrate)  
 of , on the day of Herein fail not,

Dated this day of , 19 .

(Seal)

(Signature)

## II.—WARRANT OF ARREST

(See section 75)

To (name and designation of the person or persons who is or are  
 to execute the warrant)

WHEREAS of stands charged with the offence  
 (state the offence), you are hereby directed to arrest the said  
 , and to produce him before me Herein fail not

Dated this day of , 19 .

(Seal)

(Signature)

(See section 76.)

This warrant may be endorsed as follows:—

If the said shall give bail himself in the sum of  
 (or two sureties each in the sum of  
 (state the sum)) to attend before me on the day of and to  
 continue so to attend until otherwise directed by me, he may be re-  
 leased.

Dated this day of , 19 .

(Signature.)





## SCEDULE V.—(continued.)

## FORMS—(continued.)

Proclamation is hereby made that the said of is required to appear at (place) before this Court (or before me) to answer the said complaint within days from this date

Dated this day of , 19 .

(Seal)

(Signature)

## V.—PROCLAMATION REQUIRING THE ATTENDANCE OF A WITNESS.

(See section 87.)

WHEREAS complaint has been made before me that (name, description and address) has committed (or is suspected to have committed) the offence of (mention the offence concisely) and a warrant has been issued to compel the attendance of (name description and address of the witness) before this Court to be examined touching the matter of and whereas it has been returned to the Court and is now

Proclamation is hereby made that the said (name) is required to appear at (place) before the Court of on the day of next at o'clock, to be examined touching the offence complained of.

Dated this day of 19 .

(Seal)

(Signature)

## VI.—ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS.

(See section 88.)

To the Police-officer in charge of the police-station at  
 WHEREAS a warrant has been duly issued to compel the attendance of (name, description and address) to testify concerning a complaint pending before this Court, and it has been returned to the said Court that it cannot be served; and whereas it has been shown to







SCHEDULE V.—(continued.)

FORMS—(continued.)

## IX.—WARRANT TO SEARCH SUSPECTED PLACE OF DEPOSIT.

(See section 98.)

To (name and designation of a Police-officer above the rank of Con-  
st(e)

We

DEFEU

 $\cdot 146$ 

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at the purpose in the words of the section);

This is to authorize and require you to enter the said house (or

and to use, if

to search every  
is to be confined

the possession of

coins, as the case  
of any nation.

ents and materials which you may reasonably believe to be kept

the manufacture of forged documents, or counterfeit stamps, or

ing before this Court such of the said things as may be taken pos-

returning this warrant, with an endorsement certifying

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Given under my hand and the seal of the Court, this                      day  
 , 19

(Seal) (Signature)

\_\_\_\_\_

### X.—BOUND TO KEEP THE PEACE

(See section 10%)

(See Section 101).

RENZAS I, (name), inhabitant of (place), have been called upon  
enter into a ... the ... for the ... of ...

peace, or do any act that

co, during the said term ;

### X.—BOND TO KEEP THE PFACE

(See section 107).

WHEREAS I (name) inhabitant of (place) have been called upon

Enter into a contract, modification or purchase order, have been called upon  
the term of , I hereby

peace, or do any act that  
endanger the public peace.

I hereby bind myself to

1. *Journal of the American Medical Association*, 1997; 277: 1039-1043.



# SCHEDULE V.—(continued)

## FORMS—(continued.)

Peace will probably be occasioned), you are hereby required to  
 attend in person (or by a duly authorized agent) at the office of the  
 Magistrate of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, at ten o'clock in  
 the forenoon, to show cause why you should not be required to enter  
 into a bond for Rupees \_\_\_\_\_ [when sureties are required, add, and  
 to give security by the bond of one (or two, as the case may be)  
 surety (or sureties) in the sum of Rupees \_\_\_\_\_ (each if more than  
 one)] that you will keep the peace for the term of \_\_\_\_\_  
 Given under my hand and the seal of the Court, this \_\_\_\_\_ day  
 of \_\_\_\_\_ 19\_\_\_\_  
 (Seal) \_\_\_\_\_ (Signature)

## XIII.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY TO KEEP THE PEACE (See section 123.)

To the Superintendent (or Keeper) of the Jail at \_\_\_\_\_  
 Whereas (name and address) appeared before me in person (or by  
 a duly authorized agent) on the \_\_\_\_\_ day of \_\_\_\_\_ in obedience to a sum-  
 mons calling upon him to show cause why he should not enter into  
 a bond for Rupees \_\_\_\_\_ with one surety (or a bond with two sureties  
 of \_\_\_\_\_ Rupees \_\_\_\_\_), that he, the said (name) would keep the  
 peace for the period of \_\_\_\_\_ months, and whereas an order was  
 made requiring the said (name) to enter into and find such se-  
 curity (state the security ordered when it differs from that mentioned  
 in the summons), and he has failed to comply with the said order,  
 This is to authorize and require you, the said Superintendent (or  
 Keeper), to receive the said (name) into your custody, together with  
 the warrant, and him safely to keep in the said jail for the said  
 term of (term of imprisonment) unless he shall in the meantime  
 find \_\_\_\_\_ surety (or sureties)  
 \_\_\_\_\_ shall be received,  
 \_\_\_\_\_ warrant with an

Given under my hand and the seal of the Court, this \_\_\_\_\_ day  
 of \_\_\_\_\_ 19\_\_\_\_  
 (Seal) \_\_\_\_\_ (Signature.)





## SCHEDULE V.—(continued.)

## FORMS—(continued)

V.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON  
FAILURE TO GIVE SECURITY.

(See sections 123 and 124)

To the Superintendent (or Keeper) of the Jail at \_\_\_\_\_ (or other  
 \_\_\_\_\_ in whose custody the person is)

WHEREAS (name and description of prisoner) was committed to  
 your custody under warrant of the Court, dated the \_\_\_\_\_ day of  
 \_\_\_\_\_, and has since duly given security under section \_\_\_\_\_ of the Code of  
 Criminal Procedure,

or

and there have appeared to me sufficient grounds for the opinion  
 that he can be released without hazard to the community

This is to authorize and require you forthwith to discharge the  
 \_\_\_\_\_ (name) from your custody, unless he is liable to be detained for  
 some other cause

Given under my hand and the seal of the Court, this \_\_\_\_\_ day  
 \_\_\_\_\_ 10

(Seal)

(Signature)

## XVI.—ORDER FOR THE REMOVAL OF NUISANCES.

(See section 133.)

To (name, description and address)

WHEREAS it has been made to appear to me that you have caused  
 obstruction (or nuisance) to persons using the public roadway or  
 \_\_\_\_\_ (public place) which &c., (describe the road or public place), by,  
 \_\_\_\_\_ (state what it is that causes the obstruction or nuisance), and that  
 such obstruction (or nuisance) still exists,

or

WHEREAS it has been made to appear to me that you are carrying  
 \_\_\_\_\_ as owner, or manager, the trade or occupation of (state the particu-  
 \_\_\_\_\_ trade or occupation and the place where it is carried on), and that  
 the same is injurious to the public health (or comfort by reason (state



## SCHEDULE V.—(continued.)

## FORMS.—(continued.)

(name) has applied to me by a petition bearing date the      day  
 , for an order appointing a jury to try whether the  
 ecited order is reasonable and proper; I do hereby appoint  
 mes &c, of the five or more jurors) to be the jury to try and  
 the said question, and do require the said jury to report their  
 n within      days from the date of this order at my office

ren under my hand and the seal of the Court, this      day  
 , 19      .

al) (Signature)

### III.—MAGISTRATE'S NOTICE AND PEREMPTORY ORDER AFTER THE FINDING BY A JURY.

(See section 140.)

(name, description and address).

HEREBY give you notice that the jury duly appointed on the  
 n presented by you on the      day of      have found that  
 rder      ing you (state sub-  
 sonable and proper  
 direct and require  
 allowed), on peril  
 do for disobedience

ren under my hand and the seal of the Court, this      day  
 , 19      .

al) (Signature)

### IV.—INJUNCTION TO PROVIDE AGAINST IMMINENT DANGER PENDING INQUIRY BY JURY

(See section 142)

(name, description and address)

HEREBY the inquiry by a jury appointed to try whether my order  
 on the      day of      , 19      is reasonable and proper



## SCHEDULE V.—(continued.)

## FORMS—(continued.)

road, so as to occasion risk of obstruction to persons using the

or

BECAUSE it has been made to appear to me that you and a  
 of other persons (*mention the class of persons*) are about to  
 and proceed in a religious procession along the public street,  
*(the case may be)* and that such procession is likely to lead to  
 an affray,

or

BECAUSE, &c, &c, (*as the case may be*);  
 I hereby order you not to place or permit to be placed any of  
 or stones dug from land on any part of the said road;

or

I hereby prohibit the procession passing along the said street,  
 and I hereby warn and enjoin you not to take any part in such proces-  
 sion (*as the case recited may require*).

Given under my hand and the seal of the Court, this            day  
 , 19            .

Seal,

(Signature)

# I.—MAGISTRATE'S ORDER DECLARING PARTY ENTITLED TO RETAIN POSSESSION OF LAND, &c., IN DISPUTE.

(See section 145.)

Appearing to me, on the grounds duly recorded, that a dispute  
 to induce a breach of the peace, existed between (*describe the*  
*by name and residence or residence only if the dispute be between*  
*of villages*) concerning certain (*state concisely the subject of*  
*the dispute*), situate within the local limits of my jurisdiction, all the said  
 were called upon to give in a written statement of their  
 claims as to the fact of actual possession of the said (*the*  
*of dispute*), and being satisfied by due inquiry had there-  
 without reference to the merits of the claim of either of the  
 parties to the legal right of possession, that the claim of actual  
 possession by the said (*name or names or description*) is true;



## SCHEDULE V.—(continued.)

## FORMS—(continued.)

XXIV.—MAGISTRATE'S ORDER PROHIBITING THE  
DOING OF ANYTHING ON LAND OR WATER.

(See section 147.)

A dispute having arisen concerning the right of use of (state concisely the subject of dispute) situate within the limits of my jurisdiction, the (land or water) is claimed exclusively and it appearing to me, on due view, that the said land (or water) has been open to the public (or, if by an individual or a class of persons, describe him or them), and (if the use can be enjoyed) has been enjoyed within three years (or if the use is enjoyed for the last of the seasons at which the same is capable of being enjoyed " ) ;

I do order that the said (the claimant or claimants of possession), or any one in their interest, shall not take (or retain) possession of the said land (or water) to the exclusion of the enjoyment of the right of use aforesaid, until he (or they) shall obtain the decree or order of a competent Court adjudging him (or them) to be entitled to exclusive possession.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day  
19 \_\_\_\_.

(Seal)

(Signature.)

XXV.—BOND AND BAIL-BOND ON A PRELIMINARY  
INQUIRY BEFORE A POLICE-OFFICER.

(See section 169.)

I (name), of \_\_\_\_\_, being charged with the offence of \_\_\_\_\_, and  
after inquiry required to appear before the Magistrate of \_\_\_\_\_,

or

and after inquiry called upon to enter into my own recognizance to  
appear when required, do hereby bind myself to appear at \_\_\_\_\_, in  
the Court of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_ next (or on such day  
as I may hereafter be required to attend) to answer further to the





## SCHEDULE V.—(continued.)

## FORMS—(continued.)

the charge against the accused is that, etc., (state the offence as charge)

dated this                      day of                      , 19                      .

(Signature)

## XXVIII.—CHARGES.

(See sections 221, 222, 223.)

## (1.)—CHARGES WITH ONE HEAD.

1. I [name and office of Magistrate, etc], hereby charge you name of accused person] as follows—

(b) That you on or about the                      day of                      , at                      , waged war against Her Majesty the Queen, Empress of India, and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the Court of Session [when the charge is framed by Presidency Magistrate, for Court of Session substitute High Court].

(c) And I hereby direct that you be tried by the said Court on the said charge.

[Signature and seal of the Magistrate.]

To be substituted for (b).—

(2) That you, on or about the                      day of                      , at                      , with the intention of inducing the Hon'ble A B, Member of the Council of the Governor-General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(3) That you, being a public servant in the                      Department, directly accepted from [state the name], for another party [state the name], a gratification other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].



## SCHEDULE V.—(continued.)

## FORMS—(continued)

3) That you, on or about the      day of      , at      ,  
 committed dacoity, an offence punishable under  
 section 325 of the Indian Penal Code, and  
 the cognizance of the Court of Session [or High Court]  
 cases tried by Magistrate substitute "within my cognizance"  
 within the cognizance of the Court of Session," and in (c)  
 "by the said Court".]

## (II.)—CHARGE WITH TWO OR MORE HEADS.

(a) I [name and office of Magistrate, &c], hereby charge you  
 of accused person) as follows —

(b) *First*.—That you, on or about the      day of      , at      ,  
 knowing a coin to be counterfeit, delivered  
 the same to another person by name A B, as  
 and thereby committed an offence punishable under section  
 of the Indian Penal Code, and within the cognizance of the  
 Court of Session [or High Court].

*Secondly*.—That you, on or about the      day of      , at      ,  
 giving a coin to be counterfeit, attempted to induce another person,  
 name A B to receive it as genuine, and thereby committed an  
 offence punishable under section 241 of the Indian Penal Code,  
 within the cognizance of the Court of Session [or High Court].

(c) And I hereby direct that you be tried by the said Court on  
 said charge.

[Signature and seal of the Magistrate]

[To be substituted for (b)] . —

(2) *First*.—That you, on or about the      day of      , at      ,  
 committed murder by causing the death of      ,  
 and thereby committed an offence  
 punishable under section 302 of the Indian  
 Penal Code, and within the cognizance of the Court of Session [or  
 High Court]

*Secondly* —That you, on or about the      day of      , at      ,  
 by causing the death of      , committed culpable homicide not  
 amounting to murder, and thereby committed an offence punishable



## SCHEDULE. V.—(continued.)

## FORMS —(continued.)

In cases tried by Magistrates substitute "within my cognizance" within the cognizance of the Court of Session" and in (c) omit the said Court"].

## II.)—CHARGE FOR THEFT AFTER PREVIOUS CONVICTION.

I (name and office of Magistrate, &c) hereby charge you (name accused person) as follows:—

That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance

of the Court of Session [or High Court Magistrate, as the case may be]

and you, I  
before me  
on the \_\_\_\_\_ day of \_\_\_\_\_

and you, I [describe the offence in the words used in the section under which the accused was convicted], which conviction is still in full force and effect, and that you are thereby liable to enhanced punishment under section 75 of the Indian Penal Code.

and I hereby direct that you be tried, &c.

## XIX.—WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT OR FINE IF PASSED BY A MAGISTRATE.

(See sections 245 and 253.)

To the Superintendent [or Keeper] of the Jail at \_\_\_\_\_  
I hereby certify on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, (name of prisoner)  
that, 1st, 2nd, 3rd, as the case may be] prisoner in case No \_\_\_\_\_  
of the Calendar for 19\_\_\_\_, was convicted before me (name and designation) of the offence of (mention the offence or offences respectively) under section (or sections) of the Indian Penal Code (or



**SCHEDULE V —(continued.)**

FORMS—(continued.)

Given under my hand and the seal of the Court, this                      day of  
 , 19                      ,  
 (Seal.)                      (Signature )

### XXI.—SUMMONS TO WITNESS.

(See sections 68 and 252.)

To  
of  
WHEREAS complaint has been made before me that  
(or is suspected to have) committed the offence of (state the  
as concisely with time and place), and it appears to me that you  
likely to give material evidence for the prosecution ;  
You are hereby summoned to appear before this Court on the  
of next at ten o'clock in the forenoon, to testify what you  
concerning the matter of the said complaint, and not to depart  
And that,  
on the

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Seal ) (Signature )

XXII.—PRECEPT TO DISTRICT MAGISTRATE TO SUMMON  
JURORS AND ASSESSORS.

(See section 326.)

the District Magistrate of  
 Whereas a Criminal Session is appointed to be held in the Court  
 at on the day of next, and the names of the per-  
 sons herein stated have been duly drawn by lot from among those  
 in the revised list of jurors and assessors furnished to this  
 you are hereby required to summon the said persons to attend  
 said Court of Session at 10 A M on the said date, and, within  
 date, to certify that you have done so in pursuance of this  
 pre,

(Here enter the names of jurors and assessors)

(Here enter the names of jurors and advisors )





## SCHEDULE V.—(continued.)

## FORMS—(continued.)

ven under my hand and the seal of the Court, this      day of  
 , 19 .  
 cal.) (Signature)

V.—WARRANT OF EXECUTION ON A SENTENCE OF DEATH.  
 (See section 381.)

the Superintendent (or Keeper) of the Jail at .  
 WHEREAS (name of prisoner), the (1st, 2nd, 3rd, as the case may  
 prisoner in case No.      of the Calendar at the Session held be-  
 ne on the      day      , 19      , has been by a warrant of this  
 dated the      day of      committed to your custody un-  
 sentence of death, and whereas the order of the      Court of  
 ming the said sentence has been received by this Court;  
 his is to authorize and require you, the said Superintendent (or  
 or), to carry the said sentence into execution by causing the  
 to be hanged by the neck until he be dead, at (time and  
 of execution) and to return this warrant to the Court with an  
 cement certifying that the sentence has been executed  
 ven under my hand and the seal of the Court, this      day of  
 , 19 .  
 cal.) (Signature)

XVI.—WARRANT AFTER A COMMUTATION OF A SENTENCE.  
 (See sections 381 and 382.)

in the Superintendent (or Keeper) of the Jail at .  
 WHEREAS at a Session held on the      day of      , 19      ,  
 of prisoner), the (1st, 2nd, 3rd, as the case may be) prisoner  
 No.      of the Calendar at the said Session, was convicted of  
 offence of      , punishable under section      of the Indian  
 Code, and sentenced to      , and was thereupon committ-  
 your custody, and whereas by the order of the      Court  
 (a duplicate of which is herunto annexed) the punishment



## SCHEDULE V.—(continued.)

## FORMS—(continued.)

Given under my hand and the seal of the Court, this                      day of  
                     , 19                      .  
 Seal )                      (Signature )

XXVIII.—WARRANT OF COMMITMENT IN CERTAIN CASES  
OF CONTEMPT WHEN A FINE IS IMPOSED.

(See section 480.)

To the Superintendent (or Keeper) of the Jail at                      .  
 WHEREAS at a Court holden before me on this day (name and  
 description of the offender) in the presence (or view) of the Court  
 committed wilful contempt;  
 and whereas for such contempt the said (name of offender), has  
 been adjudged by the Court to pay a fine of Rupees                      , or in  
 default to suffer simple imprisonment for the space of (state the  
 number of months or days),  
 This is to authorize and require you, the Superintendent (or  
 Keeper) of the said jail, to receive the said (name of offender) into  
 custody, together with this warrant, and him safely to keep in  
 said jail for the said period of (term of imprisonment) unless the  
 fine be sooner paid; and, on the receipt thereof, forthwith to  
 deliver him at liberty, returning this warrant with an endorsement cer-  
 tifying the manner of its execution

Given under my hand and the seal of the Court, this                      day of  
                     19                      .  
 Seal )                      (Signature )

XIX.—MAGISTRATE'S OR JUDGE'S WARRANT OF COMMIT-  
MENT OF WITNESS REFUSING TO ANSWER.

(See section 485.)

To (name and description of officer of Court)  
 WHEREAS (name and description), being summoned (or brought  
 before this Court) as a witness and this day required to give evi-



**SCHEDULE V.—(continued.)**

FORMS—(continued)

to jail, together with this warrant, and there carry the said order  
of execution according to law, returning this warrant with an  
endorsement certifying the manner of its execution

Given under my hand and the seal of the Court, this                      day of  
19                      .

(Seal )

(Signature )

LI.—WARRANT TO ENFORCE THE PAYMENT OF MAINTENANCE  
BY DISTRESS AND SALE.

(See section 488)

To (name and designation of the Police-officer or other person execute the warrant)

WHEREAS an order has been duly made requiring (name) to pay to his said wife (or child) for maintenance the monthly sum of Rupees \_\_\_\_\_, and whereas the said (name), in wilful disregard of the said order has failed to pay Rupees \_\_\_\_\_, being the amount of the allowance for the month (or months) of \_\_\_\_\_.

This is to authorize and require you to make distress by seizure of any moveable property belonging to the said (name) which may be found within the district of \_\_\_\_\_, and if within (state the number of days or hours allowed) next after such distress, the said \_\_\_\_\_ shall not be paid (or forthwith), to sell the moveable property so obtained, or so much thereof as shall be sufficient to satisfy the sum, returning this warrant, with an endorsement certifying that you have done under it immediately upon its execution.

Given under my hand and the seal of the Court, this      day of  
 , 19.

(Next)

(Signature.)

### III.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A MAGISTRATE.

(See sections 496 and 499.)

1, (name), of (place), being brought before the Magistrate of (as  
case may be) charged with the offence of \_\_\_\_\_, and required



## SCHEDULE V.—(continued).

## FORMS—(continued).

under my hand and the seal of the Court, this      day of  
 , 19 .

L) (Signature )

# XLIV—WARRANT OF ATTACHMENT TO ENFORCE A BOND.

(See section 514 )

A Police-officer in charge of the Police-station at .  
 REAS (name, description and address of person) has failed to  
 in (mention the occasion) pursuant to his recognizance,  
 by such default forfeited to Her Majesty the Queen,  
 of India, the sum of Rupees (the penalty in the bond); and  
 the said (name of person) has, on due notice to him, failed  
 to pay the said sum or show any sufficient cause why payment should  
 be enforced against him

I do hereby authorize and require you to attach any moveable pro-  
 perty of the said (name) that you may find within the district of  
 the said (name) and within the district of  
 seizure and detention and, if the said amount be not paid  
 within the said days, to sell the property so attached or so much of it as  
 is sufficient to realize the amount aforesaid, and to make return  
 of the proceeds of the sale to the Court to which you have done under this warrant immediately upon its

under my hand and the seal of the Court, this      day of  
 , 19 .

) (Signature )

# V.—NOTICE TO SURETY ON BREACH OF A BOND.

(See section 511.)

of

BEFORE on the      day of      , 19      , you became surety for  
 (place) that he should appear before this      Court  
 day of      , and bound yourself in default thereof  
 the sum of Rupees      to Her Majesty the Queen,





## SCHEDULE V.—(continued.)

## FORMS—(continued.)

said (name) has made default, and thereby forfeited to Her Majesty the Queen, Empress of India, the sum of Rupees (the sum in the bond) ;

This is to authorize and require you to attach any moveable property of the said (name) which you may find within the district, by seizure and detention ; and, if the said amount be not within three days, to sell the property so attached, or so much as may be sufficient to realize the amount aforesaid, and make good of what you have done under this warrant immediately upon execution.

Given under my hand and the seal of the Court this      day of      ,

(Seal.)

(Signature)

### III.—WARRANT OF COMMITMENT OF THE SURETY OF AN ACCUSED PERSON ADMITTED TO BAIL.

(See section 514.)

I, the Superintendent (or Keeper) of the Civil Jail at

hereby do

for

name

and

Empress of India, and whereas the said (name of surety) has, on due to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him, and the same sum should be recovered by attachment and sale of moveable property of the said (name), and an order has been made for his imprisonment in the civil jail (specify the period) ;

This is to authorize and require you the said Superintendent (or Keeper) to receive the said (name) into your custody with this warrant, and to keep him safely in the said Jail for the said (term of imprisonment), and to return this warrant with an endorsement showing the manner of its execution.



**SCHEDULE V.—(continued.)**  
**FORMS—(continued.)**

is property so attached, or so  
 as the same, and to make  
 warrant immediately upon

under my hand and the seal of the Court, this      day of

.) (Signature.)

**WARRANT OF IMPRISONMENT ON BREACH OF A BOND TO  
 KEEP THE PEACE.**

*(See section 514)*

a Superintendent (or Keeper) of the Civil Jail at

that proof has been given before me and duly recorded that  
 (description) has committed a breach of the bond entered  
 him to keep the peace, whereby he has forfeited to Her  
 the Queen Empress of India, the sum of Rupees      and  
 the said (name) has failed to pay the said sum, or to show  
 y the said sum should not be paid, although duly called  
 to so, and payment thereof cannot be enforced by attach-  
 his movable property, and an order has been made for  
 sonment of the said (name) in the civil jail for the period  
 of imprisonment)

I to authorize and require you, the said Superintendent, (or  
 if the said civil jail, to receive the (name) into your custody,  
 with this warrant, and him safely to keep in the said jail  
 said period of (term of imprisonment), and to return this  
 with an endorsement certifying the manner of its execution,  
 under my hand and the seal of the Court, this      day of

(Signature.)



SCHEDULE V.—(*concluded.*)FORMS—(*concluded.*)

India, the sum of Rupees , and whereas he has failed to pay  
 e said sum or to show cause why the said sum should not be paid,  
 though duly called upon to do so, and payment thereof cannot be  
 forced by attachment of his moveable property, and an order has  
 made for the imprisonment of the said (name) in the civil jail  
 r the period of (term of imprisonment) :

This is to authoriz  
 eper), to receive the  
 is warrant, and him  
 rod of (term of imp....."  
 dorsement certifying the manner of its execution

Given under my hand and the seal of the Court, this day of ,

(Seal)

(Signature.)



THE  
INDIAN REGISTRATION ACT  
ACT XVI OF 1908.

Passed by the Governor-General of India  
in Council.

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Price 6 Annas.

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Published by—RAM NARAIN LAL,  
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1909.





ACT No. XVI OF 1908.  
**THE INDIAN REGISTRATION ACT,  
1908.**

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#### OF THE FEES FOR REGISTRATION, SEARCHES AND COPIES.

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87. Nothing so done invalidated by defect in appointment or procedure.
88. Registration of documents executed by Government officers or certain public functionaries
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*Exemptions from Act.*

90. Exemption of certain documents executed by or in favour of Government.
91. Inspection and copies of such documents.
92. Burmese registration-rules confirmed.

*Repeals.*

93. Repeals.

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THE SCHEDULE.—REPEAL OF ENACTMENTS.

*In Act to consolidate the enactments relating  
to the Registration of Documents.*

WHEREAS it is expedient to consolidate the enactments relating to the registration of documents ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be called the Indian Registration Act, 1908.

Short title, extent and commencement.

(2) It extends to the whole of British India, except such districts or tracts of country as the Local Government may, with the previous sanction of the Governor General in Council, exclude from its operation.

(3) It shall come into force on the first day of January, 1909.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(1) " addition " means the place of residence, and the profession, trade, rank and title (if any) of a person described, and, in the case of a Native of India, his caste (if any) and his father's

name, or where he is usually described as the son of his mother, then his mother's name :

(2) "book" includes a portion of a book and also any number of sheets connected together with a view of forming a book or portion of book :

(3) "district" and "sub-district" respectively mean a district and sub-district formed under this Act :

(4) "District Court" includes the High Court in its ordinary original civil jurisdiction :

(5) "endorsement" and "endorsed" include and apply to an entry in writing by a registering officer on a rider or covering slip to any document tendered for registration under this Act :

(6) "immovable property" includes in buildings, hereditary allowances, rights to way lights, ferries, fisheries or any other benefit arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops nor grass :

(7) "lease" includes a counterpart, kabitiat, an undertaking to cultivate or occupy, and an agreement to lease :

(8) " minor " means a person who, according to the personal law to which he is subject, has not attained majority :

(9) " moveable property " includes standing timber, growing crops and grass, fruit upon and juice in trees, and property of every other description, except immoveable property : and

(10) " representative " includes the guardian of a minor and the committee or other legal curator of a lunatic or idiot.

## PART II.

### OF THE REGISTRATION-ESTABLISHMENT.

3. (1) The Local Government shall appoint an Inspector General of Registration officer to be the Inspector General of Registration for the territories subject to such Government .

Provided that the Local Government may, instead of making such appointment, direct that all any of the powers and duties hereinafter conferred and imposed upon the Inspector General shall be exercised and performed by such officer or officers, and within such local limits, as the Local Government appoints in this behalf.

(2) Any Inspector General may hold simultaneously any other office under Government.

4. (1) The Government of Bombay in Council may also, with the previous consent of the Governor General in Council, appoint an officer to be Branch Inspector General of Sindh, who shall have all the powers of an Inspector General under this Act other than the power to frame rules hereinafter conferred.

(2) The Branch Inspector General of Sindh may hold simultaneously any other office under Government.

5. (1) For the purposes of this Act, the Local Government shall form districts and sub-districts, and shall prescribe, and may alter, the limits of such districts and sub-districts.

(2) The districts and sub-districts formed under this section, together with the limits thereof, and every alteration of such limits, shall be notified in the local official Gazette.

(3) Every such alteration shall take effect on such day after the date of the notification as is hereinafter mentioned.

5. The Local Government may appoint such persons, whether public officers or not, as it thinks proper, to be Registrars and Sub-Registrars of the several districts, and to be Sub-Registrars of the several sub-districts, formed as aforesaid, respectively.

7. (1) The Local Government shall establish in every district an office to be styled the office of the Registrar and in every sub-district an office or offices to be styled the office of the Sub-Registrar or the offices of the Joint Sub-Registrars.

(2) The Local Government may amalgamate with any office of a Registrar any office of a Sub-Registrar subordinate to such Registrar, and may authorize any Sub-Registrar whose office has been amalgamated to exercise and perform, in addition to his own powers and duties, all or any of the powers and duties of the Registrar to whom he is subordinate: Provided that no such authorization shall enable a Sub-Registrar to hear and appeal against an order passed by himself under this Act.

8. (1) The Local Government may also appoint officers, to be called Inspectors of Registration-offices, and may prescribe the duties of such officers.

(2) Every such Inspector shall be subordinate to the Inspector General.

9. Every military cantonment may (if the Local Government so directs) be, for the purposes of this Act, a sub-district or a district, and the Cantonment Magistrate shall be the Sub-Registrar or the Registrar of such sub-district or district, as the case may be.

10. (1) When any Registrar, other than the Registrar of a district including a Presidency-town, is absent otherwise than on duty in his district, or when his office is temporarily vacant, any person whom the Inspector General appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's office is situate, shall be the Registrar during such absence or until the Local Government fills up the vacancy.

(2) When the Registrar of a district including a Presidency-town is absent otherwise than on duty in his district, or when his office is temporarily vacant, any person whom the Inspector General appoints in this behalf shall be the Registrar during

absence, or until the Local Government fills the vacancy.

1. When any Registrar is absent from his office on duty in his district, he may appoint any Sub-Registrar or other person in his district to perform, during such absence, all the duties of a Registrar except those mentioned in sections 68 and 72.

12. When any Sub-Registrar is absent, or when his office is temporarily vacant, any person whom the Registrar of the district appoints in this behalf shall be Sub-Registrar during such absence, or until the Local Government fills up the vacancy.

13. (1) All appointments made under section 10, section 11, or section 12 shall be reported to the Local Government by the Inspector General.

(2) Such report shall be either special or general, as the Local Government directs.

(3) The Local Government may suspend, remove or dismiss any person appointed under the provisions of this Act, and appoint another person in his stead.



14. (1) Subject to the approval of the Government or General in Council, the Local Government may assign such salaries as such Government deems proper to the registering officers appointed under this Act, or provide for their remuneration by fees, or partly by fees and partly by salaries.

(2) The Local Government may allow proper establishments for the several offices under this Act.

15. The several Registrars and Sub-Registrars shall use a seal bearing the following inscription in English and in such other language as the Local Government directs:—  
 "The seal of the Registrar (or of the Sub-Registrar) of ."

16. (1) The Local Government shall provide for the office of every registering officer the books necessary for the purposes of this Act.

(2) The books so provided shall contain the forms from time to time prescribed by the Inspector General, with the sanction of the Local Government, and the pages of such books shall be

cutively numbered in print, and the numbers in each book shall be certified on the title by the officer by whom such books are issued.

(3) The Local Government shall supply the of every Registrar with a fire-proof box, and in each district make suitable provision for the custody of the records connected with the relation of documents in such district.

### PART III.

#### OF REGISTRABLE DOCUMENTS

1. (1) The following documents shall be registered, if the property to which they relate is situate in a district in which, Act No. XVI of 1864, or the Indian Registration Act, No. XX of 1866, or the Indian Registration Act, No. VII of 1871, or the Indian Registration Act, No. III of 1877, or this Act came into force, namely:—

instruments of gift of immoveable property, other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the

value of one hundred rupees and upward to or in immoveable property ;

- (c) non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation declaration, assignment, limitation or extinction of any such right, title or interest ; and

- (d) leases of immoveable property from year to year, or for any term exceeding one year, or reserving a yearly rent :

Provided that the Local Government may, by order published in the local official Gazette, exempt from the operation of this sub-section any leases executed in any district, or part of a district, the terms granted by which do not exceed five years and the annual rents reserved by which do not exceed fifty rupees.

(2) Nothing in clauses (b) and (c) of said section (1) applies to—

- (i) any composition-deed : or  
 (ii) any instrument relating to shares in a Joint Stock Company, notwithstanding that the assets of such Company consist in whole or in part of immoveable property : or

- (ii) any debenture issued by any such Company and not creating, declaring, assigning, limiting or extinguishing any right, title or interest, to or in immoveable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the Company has mortgaged, conveyed or otherwise transferred the whole or part of its immoveable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures, or
- ) any endorsement upon or transfer of any debenture issued by any such Company, or
- ) any document not itself creating, declaring, assigning, limiting or extinguishing any right, title or interest of the value of one hundred rupees and upwards to or in immoveable property, but merely creating a right to obtain another document which will, when executed, create, declare, assign, limit or extinguish any such right, title or interest, or
- ) any decree or order of a Court and any award; or



18. Any of the following documents may be registered under this Act, namely :—  
Documents of which registration is optional

- (a) instruments (other than instruments of gift and wills) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees, to or in immoveable property ;
- (b) instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest ;
- (c) leases of immoveable property for any term not exceeding one year, and leases exempted under section 17 ;
- (d) instruments (other than wills) which purport or operate to create, declare, assign, limit or extinguish any right, title or interest to or in moveable property ;
- (e) wills ; and
- (f) all other documents not required by section 17 to be registered.

19. If any document duly presented for re-

Documents in language not understood by registering officer.

gistration be in a language which the registering officer does not understand, and which is not commonly

used in the district, he shall refuse to register the document, unless it be accompanied by a true translation into a language commonly used in the district and also by a true copy.

20. (1) The registering officer may in his

Documents containing interlineations, blanks, erasures or alterations

discretion refuse to accept for registration any document in which any interlineation, blank, erasure or al-

teration appears, unless the persons executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration.

(2) If the registering officer registers any such document, he shall, at the time of registering the same, make a note in the register of such interlineation, blank, erasure or alteration.

21. (1) No non-testamentary document relating

Description of property and maps or plans

to immovable property shall be accepted for registration unless it con-

tains a description of such property sufficient to identify the same.

(2) Houses in towns shall be described as situate on the north or other side of the street or road (which should be specified) to which they front, and by their existing and former occupancies, and their numbers if the houses in such street or road are numbered.

(3) Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate, and by their superficial contents, the roads and other properties, to which they abut, and their existing occupancies, and also, whenever it is practicable by reference to a Government map or survey.

(4) No non-testamentary document containing a map or plan of any property comprised therein shall be accepted for registration unless it is accompanied by a true copy of the map or plan, or, in case such property is situate in several districts, by such number of true copies of the map or plan as are equal to the number of such districts.

22. (1) Where it is, in the opinion of the Local Government, practicable to describe houses, not being houses in towns, and lands by reference to a Government map or survey, the Local Government may, by

*description of houses and lands by reference to Government map or survey.*



**19.** If any document duly presented for registration be in a language which the registering officer does not understand, and which is not commonly used in the district, he shall refuse to register the document, unless it be accompanied by a true translation into a language commonly used in the district and also by a true copy.

**20.** (1) The registering officer may in his discretion refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration.

(2) If the registering officer registers any such document, he shall, at the time of registering the same, make a note in the register of such interlineation, blank, erasure or alteration.

**21.** (1) No non-testamentary document relating to immoveable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

24. Where there are several persons executing a document at different times, such document may be presented for registration and re-registration within months from the date of each execution.

25. (1) If, owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order, in British India is not presented for registration till after the expiration of the time herein prescribed in that behalf, the Registrar, in case where the delay in presentation is unavoidable, where the delay in presentation does not exceed months, may direct that, on payment of a fine exceeding ten times the amount of the proper registration-fee, such document shall be accepted for registration.

(2) Any application for such direction may be made to a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

26. When a document purporting to have been executed by all or any of the parties out of British India is not presented for registration till after the expiration of

the time hereinbefore prescribed in that behalf, the registering officer, if satisfied—

- (a) that the instrument was so executed, and
- (b) that it has been presented for registration within four months after its arrival in British India,

may, on payment of the proper registration fee, accept such document for registration.

**27.** A will may at any time be presented for registration or deposited in manner hereinafter provided.

*Wills may be presented or deposited at any time*

## PART V.

### OF THE PLACE OF REGISTRATION.

**28.** Save as in this Part otherwise provided, every document mentioned in section 17, sub-section (1), clauses (a), (c) and (d), and section 18, clauses (a), (b) and (c) shall be presented for registration in the office of the Sub-Registrar within whose sub-district the whole or some portion of the property to which such document relates is situate

*Place for registering documents relating to land*

**29.** (1) Every document other than a document referred to in section 28, and a copy of a decree or order, may

*Place for registering other documents*

presented for registration either in the office of the Registrar in whose sub-district the document was executed, or in the office of any other Sub-Registrar under the Local Government at which all persons executing and claiming under the document desire the same to be registered.

(2) A copy of a decree or order may be presented for registration in the office of the Sub-Registrar in whose sub-district the original decree or order was made, or, where the decree or order does not affect immovable property, in the office of any other Sub-Registrar under the Local Government at which all the persons claiming under the decree or order desire the copy to be registered.

30. (1) Any Registrar may in his discretion receive and register any document which might be registered by any Registrar subordinate to him.

(2) The Registrar of a district including a presidency-town and the Registrar of the Lahore District may receive and register any document referred to in section 28 without regard to the situation in any part of British India of the property to which the document relates.

**31.** In ordinary cases the registration or deposit of documents under this Act shall be made only at the office of the officer authorized to accept the same for registration or deposit :

Registration or acceptance for deposit at private residence  
 Provided that such officer may on special cause being shown attend at the residence of any person desiring to present a document for registration or to deposit a will, and accept for registration or deposit such document or will.

## PART VI.

### (OF PRESENTING DOCUMENTS FOR REGISTRATION.

**32.** Except in the cases mentioned in section 31 and section 89, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper registration office,—

(a) by some person executing or claiming under the same, or, in the case of a copy of a decree or order, claiming under the decree or order, or

(b) by the representative or assign of such person, or

(c) by the agent of such person, representative or assign, duly authorized by power-of-attorney executed and authenticated in manner hereinafter mentioned.

33. (1) For the purposes of section 32, the following powers-of-attorney shall <sup>be of-attorney</sup> <sup>title for</sup> <sup>es of section</sup> alone be recognized, namely —

- a) if the principal at the time of executing the power-of-attorney resides in any part of British India in which this Act is for the time being in force, a power-of-attorney executed before and authenticated by the Registrar or Sub-Registrar within whose district or sub-district the principal resides ;
- b) if the principal at the time aforesaid resides in any other part of British India, a power-of-attorney executed before and authenticated by any Magistrate ,
- c) if the principal at the time aforesaid does not reside in British India, a power-of-attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice-Consul,

or representative of His Majesty or the Government of India :

Provided that the following persons shall be required to attend at any registration-office Court for the purpose of executing any such power-of-attorney as is mentioned in clauses (a) and (b) of this section, namely :—

- (i) persons who by reason of bodily infirmity are unable without risk or serious inconvenience so to attend ;
- (ii) persons who are in jail under civil or criminal process, and
- (iii) persons exempt by law from personal appearance in Court.

(2) In the case of every such person the Registrar or Sub-Registrar or Magistrate, as the case may be, if satisfied that the power-of-attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the office or Court aforesaid

(3) To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar or Magistrate may either himself go to

house of the person purporting to be the principal, or to the jail in which he is confined, and inform him, or issue a commission for his examination.

(4) Any power-of-attorney mentioned in section may be proved by the production of it without further proof when it purports on the face to have been executed before and authenticated by the person or Court hereinbefore mentioned on his behalf.

34. (1) Subject to the provisions contained in this Part and in sections 41, 43, 45, 69, 75, 77, 88 and 89, no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the registering officer within the time provided for presentation under sections 23, 24, 25 and 26 :

Provided that, if owing to urgent necessity or unavoidable accident all such persons do not so appear, the Registrar, in cases where the delay in appearing does not exceed four months, may direct on payment of a fine not exceeding ten times amount of the proper registration fee, in addition



to the fine, if any, payable under section 25, document may be registered.

(2) Appearances under sub-section may be simultaneous or at different times.

(3) The registering officer shall first upon—

- (a) enquire whether or not such document executed by the persons by whom it purports to have been executed ;
- (b) satisfy himself as to the identity of the persons appearing before him and allege that they have executed the document and,
- (c) in the case of any person appearing as representative, assign or agent, satisfy himself of the right of such person to appear.

(4) Any application for a direction under the proviso to sub-section (1) may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

(5) Nothing in this section applies to copies of decrees or orders.

35. (1) (a) If all the persons executing the document appear personally before the registering officer and are personally known to him, or if he be otherwise satisfied that they are the persons they present themselves to be, and if they all admit execution of the document, or

(b) if in the case of any person appearing a representative, assign or agent, such representative, assign or agent admits the execution, or

(c) if the person executing the document dead, and his representative or assign appears before the registering officer and admits the execution,

the registering officer shall register the document as directed in sections 58 to 61, inclusive.

(2) The registering officer may, in order satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this section, examine any one present in his office.

(3) (a) If any person by whom the document purports to be executed denies its execution,

(b) if any such person appears to the registering officer to be a minor, an idiot or a lunatic or

(c) if any person by whom the document purports to be executed is dead, and his representative or assign denies its execution,

the registering officer shall refuse to register the document as to the person so denying, appealing or dead :

Provided that where such officer is a Registrar he shall follow the procedure prescribed in Part XII

## PART VII.

### OF ENFORCING THE APPEARANCE OF EXECUTANTS AND WITNESSES.

**36.** If any person presenting any document for registration or claiming under any document, which is capable of being so presented, desires the appearance of any person whose presence or testimony is necessary for the registration of such document the registering officer may, in his discretion, call upon such officer or Court as the Local Government directs in this behalf to issue a summons requiring him to appear at the registration-office,

Procedure where appearance of executant or witness desired.

in person or by duly authorized agent, as a summons may be mentioned, and at a time and therein.

7. The officer or Court, upon receipt of the fee payable in such cases, shall issue the summons accordingly, and it to be served upon the person whose appearance is so required.

8. (1) (a) A person who by reason of bodily infirmity is unable without risk or serious inconvenience to appear at the registration office, or

(b) a person in jail under civil or criminal process, or

(c) persons exempt by law from personal appearance in Court, and who would but for the provision next hereinafter contained be required to appear in person at the registration office, shall not be required so to appear.

(2) In the case of every such person the registering officer shall either himself go to the house of the person, or to the jail in which he is confined, to examine him or issue a commission for his examination.

39. The law in force for the time being as to summonses, commissions and compelling the attendance of witnesses and for their remuneration in suits

Law as to summonses, commissions and witnesses,

before Civil Courts, shall, save as aforesaid and *mutatis mutandis*, apply to any summons or commission issued and any person summoned to appear under the provisions of this Act.

## PART VIII.

### OF PRESENTING WILLS AND AUTHORITIES TO ADOPT.

40. (1) The testator, or after his death person claiming as executor or otherwise under a will, may present it to any Registrar or Sub-Registrar for registration.

Persons entitled to present wills and authorities to adopt

person claiming as executor or otherwise under a will, may present it to any Registrar or Sub-Registrar

(2) The donee, or after his death donee of any authority to adopt, or the adopter, may present it to any Registrar or Sub-Registrar for registration.

41. (1) A will or an authority to adopt, presented for registration by the testator or donor, may be registered in the same manner as any other document.

Registration of wills and authorities to adopt

(2) A will or authority to adopt presented for registration by any other person entitled to present it shall be registered if the registering officer is satisfied—

- (a) that the will or authority was executed by the testator or donor, as the case may be ;
- (b) that the testator or donor is dead ; and
- (c) that the person presenting the will or authority is, under section 40, entitled to present the same.

## PART IX.

### OF THE DEPOSIT OF WILLS.

**42.** Any testator may, either personally or by duly authorized agent, deposit with any Registrar his will in a sealed cover superscribed with the name of the testator and that of his agent (if any) and with a statement of the nature of the document.

**43.** (1) On receiving such cover, the Registrar if satisfied that the person presenting the same for deposit is the testator or his agent, shall transcribe in his

Register-book No. 5 the superscription aforesaid and shall note in the same book and on the said cover the year, month, day and hour of such presentation and receipt, and the names of any persons who may testify to the identity of the testator or his agent, and any legible inscription which may be on the seal of the cover.

(2) The Registrar shall then place and retain the sealed cover in his fire-proof box.

**44.** If the testator who has deposited such cover wishes to withdraw it, he may apply, either personally or by duly authorized agent, to the Registrar who holds it in deposit, and such Registrar, if satisfied that the applicant is actually the testator or his agent, shall deliver the cover accordingly.

**45.** (1) If, on the death of a testator who has deposited a sealed cover under section 42, application be made to the Registrar who holds it in deposit to open the same, and if the Registrar is satisfied that the testator is dead, he shall, in the applicant's presence, open the cover, and, at the applicant's expense, cause the contents thereof to be copied into his Book No. 3.

(2) When such copy has been made, the Registrar shall re-deposit the original will.

46. (1) Nothing hereinbefore contained shall affect the provisions of section 259, <sup>of the Indian Succession Act, No. X 1865,</sup> or of section 81 of the Probate and Administration Act, No. V of 1881, or the power of any court by order to compel the production of any will.

(2) When any such order is made, the Registrar shall, unless the will has been already filed under section 45, open the cover and cause the will to be copied into his Book No. 3 and make note on such copy that the original has been removed into Court in pursuance of the order aforesaid.

## PART X.

### OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION.

47. A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration.



# 48. All non-testamentary documents

Registered documents relating to property when to take effect against oral agreements.

registered under this Act, and relating to any property, whether moveable or immovable, shall take effect against any oral agreement or

declaration relating to such property, unless where agreement or declaration has been accompanied or followed by delivery of possession.

Effect of non-registration of documents required to be registered.

# 49. No document required section 17 to be registered shall-

- (a) affect any immovable property comprised therein, or
  - (b) confer any power to adopt, or
  - (c) be received as evidence of any transaction affecting such property or conferring such power,
- unless it has been registered.

# 50. (1) Every document of the kind mentioned in clauses (a), (b), (c) and (d) of section 17, sub-section (1) and clauses (a) and (b) of section 18 shall, if duly registered, take effect

Certain registered documents relating to land, to take effect against unregistered documents.

as regards the property comprised therein, against every unregistered document relating to the same

property, and, not being a decree or order, whether the unregistered document be of the same nature as the registered document or not.

(2) Nothing in sub-section (1) applies to cases exempted under the proviso to sub-section of section 17 or to any document mentioned in sub-section (2) of the same section, or to any registered document which had not priority under the law in force at the commencement of this Act.

*Explanation.*—In cases where Act No. XVI of 1871 or the Indian Registration Act, No. XX of 1876, was in force in the place and at the time and at which such unregistered document was executed “unregistered” means not registered according to such Act, and, where the document was executed after the first day of July, 1871, not registered under the Indian Registration Act, No. XX of 1871, or the Indian Registration Act, No. XX of 1877, or this Act.

## PART XL

### THE DUTIES AND POWERS OF REGISTERING OFFICERS.

(A) *As to the Register-books and Indexes.*

51. (1) The following books shall be kept in the several offices hereinafter named, namely :—

Register-books to be kept in the several offices.

A—In all registration offices—

Book 1, " Register of non-testamentary documents relating to immoveable property ;

Book 2, " Record of reasons for refusal register ; "

Book 3, " Register of wills and authority to adopt ; " and

Book 4, " Miscellaneous Register ; "

B—In the offices of Registrars—

Book 5, " Register of deposits of wills. "

(2) In Book 1 shall be entered or filed documents or memoranda registered under sections 17, 18 and 89 which relate to immoveable property and are not wills.

(3) In Book 4 shall be entered all documents registered under clauses (d) and (f) of section 18 which do not relate to immoveable property.

(4) Nothing in this section shall be deemed to require more than one set of books where the office of the Registrar has been amalgamated with the office of a Sub-Registrar.

**52.** (1) (a) The day, hour and place of presentation, and the signature of every person presenting a document for registration, shall be endorsed on

*Duties of registering officers when document presented.*

every such document at the time of presenting ;

- (b) a receipt for such document shall be given by the registering officer to the person presenting the same ; and,
- (c) subject to the provisions contained in section 62, every document admitted to registration shall without unnecessary delay be copied in the book appropriated therefor according to the order of its admission.

(2) All such books shall be authenticated at such intervals and in such manner as from time to time prescribed by the Inspector General.

**53.** All entries in each book shall be numbered in a consecutive series, which shall commence and terminate with year, a fresh series being commenced at the beginning of each year.

**54.** In every office in which any of the books hereinbefore mentioned are kept there shall be prepared current indexes of contents of such books ; and every entry in suc

indexes shall be made, so far as practicable immediately after the registering officer has copied, filed a memorandum of, the document to which relates.

55. (1) Four such indexes shall be made in registration offices, and shall be named, respectively, Index No. I, Index No. II, Index No. III and Index No. IV.

Indexes to be made by registering officers and their contents.

(2) Index No. I shall contain the names and additions of all persons executing and of all persons claiming under every document entered or memorandum filed in Book No. I.

(3) Index No. II shall contain such particulars mentioned in section 21 relating to every such document and memorandum as the Inspector General from time to time directs in that behalf.

(4) Index No. III shall contain the names and additions of all persons executing every will and authority entered in Book No. 3, and of the executors and persons respectively appointed thereunder, and after the death of the testator or the donor (but not before) the names and additions of all persons claiming under the same.

(5) Index No. IV shall contain the and additions of all persons executing and of sons claiming under every document entered k No. 4.

(6) Each Index shall contain such other lars, and shall be prepared in such form as pector General from time to time directs.

(1) Every Sub-Registrar shall send to the Registrar to whom he is subordinate, at such intervals as the Inspector General from time to time directs, a all entries made by such Sub-Registrar, the last of such intervals, in Indexes Nos. I, III,

(2) Every Registrar receiving such copy le it in his office.

(1) Subject to the previous payment of the fees payable in that behalf, the Books Nos. 1 and 2 and the Indexes relating to Book No 1 shall be at all times o inspection by any person applying to inspect ne; and, subject to the provisions of section 62, of entries in such books shall be given to all s applying for such copies.



the signature and addition of every person admitting the execution of the document, and, if such execution has been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent ;

the signature and addition of every person examined in reference to such document under any of the provisions of this Act ; and

any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution.

(2) If any person admitting the execution of the document refuses to endorse the same, the registering officer shall nevertheless register it, but at the same time endorse a note of such

9. The registering officer shall affix the date and his signature to all endorsements made under sections 52 and 53,

nts to be  
signed by  
officer.



relating to the same document and made in his presence on the same day.

**60.** (1) After such of the provisions of sections 34, 35, 58 and 59 as apply to any document presented for registration have been complied with, the registering officer shall endorse thereon a certificate containing the word "registered," together with the number and page of the book in which the document has been copied.

(2) Such certificate shall be signed, sealed and dated by the registering officer, and shall then be admissible for the purpose of proving that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsements referred to in section 59 have occurred as therein mentioned.

**61.** (1) The endorsements and certificate referred to and mentioned in sections 59 and 60 shall thereupon be copied into the margin of the Register-book, and the copy of the map or plan (if any) mentioned in section 21 shall be filed in Book No. 1.

(2) The registration of the document shall thereupon be deemed complete, and the document

It then be returned to the person who presented same for registration, or to such other person (any) as he has nominated in writing in that behalf on the receipt mentioned in section 52.

52. (1) When a document is presented for registration under section 19, the translation shall be transcribed in the register of documents of the nature of the original, and, together with copy referred to in section 19, shall be filed in registration office.

(2) The endorsements and certificate respectively mentioned in sections 59 and 60 shall be on the original, and, for the purpose of making copies and memoranda required by sections 57, 65 and 66, the translation shall be treated as if it were the original.

53. (1) Every registering officer may at his discretion administer an oath to any person examined by him under the provisions of this Act.

(2) Every such officer may also at his discretion record a note of the substance of the statement made by each such person, and such statement

shall be read over, or (if made in a language in which such person is not acquainted) interpreted to him in a language with which he is acquainted, and if he admits the correctness of such note, it shall be signed by the registering officer.

(3) Every such note so signed shall be admissible for the purpose of proving that the statements therein recorded were made by the person and under the circumstances therein stated.

*(C) Special Duties of Sub-Registrar.*

**64.** Every Sub-Registrar on registering a non-

Procedure where document relates to land in several sub-districts

testamentary document relating to immovable property not wholly situate in his own sub-district shall make a memorandum thereof and of the endorsement on certificate (if any) thereon, and send the same to every other Sub-Registrar subordinate to the same Registrar as himself in whose sub-district any part of such property is situate, and such Sub-Registrar shall file the memorandum in his Book No. 1.

**65.** (1) Every Sub-Registrar on registering a

Procedure where document relates to land in several districts.

non-testamentary document relating to immovable property situate in more districts than one shall also forward a copy thereof and of the endorsement to

ificate (if any) thereon, together with a copy of map or plan (if any) mentioned in section 21, to Registrar of every district in which any part of a property is situate other than the district in which his own sub-district is situate.

(2) The Registrar on receiving the same shall file in his Book No. 1 the copy of the document, the copy of the map or plan (if any), and shall forward a memorandum of the document to each of the Sub-Registrars subordinate to him within whose sub-district any part of such property is situate : and every Sub-Registrar receiving such memorandum shall file it in his Book No. 1.

*(D) Special Duties of Registrar.*

**66.** (1) On registering any non-testamentary document relating to unmoveable property, the Registrar shall forward a memorandum of such document to each Sub-Registrar subordinate to himself in whose sub-district any part of the property is situate.

(2) The registrar shall also forward a copy of such document, together with a copy of the map or plan (if any) mentioned in section 21, to every other Registrar in whose district any part of a property is situate.

(3) Such Registrar on receiving any such copy shall file it in his book No. 1, and shall also send a memorandum of the copy to each of the Sub-Registrars subordinate to him within whose sub-district any part of the property is situate.

(4) Every Sub-Registrar receiving any memorandum under this section shall file it in his Book No. 1.

**67.** On any document being registered under section 30, sub-section (2), a copy of such document and of the endorsements and certificate thereon shall be forwarded to every Registrar within whose district any part of the property to which the instrument relates is situate, and the Registrar receiving such copy shall follow the procedure prescribed for him in section 66, sub-section (1).

Procedure after registration under section 30, sub-section (2)

*(E) Of the controlling Powers of Registrars and Inspectors General.*

**68.** (1) Every Sub-Registrar shall perform the duties of his office under the superintendence and control of the Registrar in whose district the office of such Sub-Registrar is situate.

Power of Registrar to superintend and control sub-Registrars

(2) Every Registrar shall have authority to (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him or in respect of the rectification of any error regarding the book or the office in which a document has been registered.

69. (1) The Inspector General shall exercise a general superintendence over all the registration offices in the territories under the Local Government, and I have power from time to time to make rules consistent with this Act—

- (a) providing for the safe custody of books, papers and documents, and also for the destruction of such books, papers and documents as need no longer be kept ;
- (b) declaring what languages shall be deemed to be commonly used in each district ,
- (c) declaring what territorial divisions shall be recognized under section 21 ;
- (d) regulating the amount of fines imposed under sections 25 and 31, respectively ,
- (e) regulating the exercise of the discretion reposed in the registering officer by section 63 .

- (f) regulating the form in which registering officers are to make memoranda of documents ;
- (g) regulating the authentication by Registrars and Sub-Registrars of the books kept in their respective offices under section 51 ;
- (h) declaring the particulars to be contained in Indexes Nos. I, II, III and IV, respectively ;
- (i) declaring the holidays that shall be observed in the registration-offices ; and,
- (j) generally, regulating the proceedings of the Registrars and Sub-Registrars.

(2) The rules so made shall be submitted to the Local Government for approval, and, after they have been approved, they shall be published in the official Gazette, and on publication shall have effect as if enacted in this Act.

**70.** The Inspector General may also, in the exercise of his discretion, remit wholly or in part the difference between any fine levied under section 25 or section 34, and the amount of the proper registration fee.

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## PART XII

## OF REFUSAL TO REGISTER.

71. (1) Every Sub-Registrar refusing to register a document, except on the ground that the property to which it relates is not situate within his sub-district, shall make an entry of refusal and record his reasons for such refusal in his book No. 2, and endorse the words "registration refused" on the document; and on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons recorded.

(2) No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

72. (1) Except where the refusal is made on the ground of denial of execution, an appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration (whether registration of such document is compulsory or optional) to the registrar to whom such Sub-Registrar is subordinate, if presented to such Registrar

reasons for refusal to be recorded  
 not situate within his sub-district, shall make an entry of refusal and record his reasons for such refusal in his book No. 2, and endorse the words "registration refused" on the document; and on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons recorded.

ent to Registrar  
 on orders of Registrar refusing registration on other than of execution



within thirty days from the date of the order the Registrar may reverse or alter such order.

(2) If the order of the Registrar directs the document to be registered and the document duly presented for registration within thirty days after the making of such order, the Sub-Registrar shall obey the same, and thereupon shall, so far as may be practicable, follow the procedure prescribed in sections 58, 59 and 60; and such registration shall take effect as if the document had been registered when it was first duly presented for registration.

**73.** (1) When a Sub-Registrar has refused to register a document on the ground that any person by whom it purports to be executed, or his representative or assign, denies its execution, any

Application to Registrar where Sub-Registrar refuses to register on ground of denial of execution.  
 person claiming under such document, or his representative, assign or agent authorized as aforesaid, may, within thirty days after the making of the order of refusal, apply to the Registrar to whom such Sub-Registrar is subordinate in order to establish his right to have the document registered.

(2) Such application shall be in writing and shall be accompanied by a copy of the reasons

recorded under section 71, and the statements in the application shall be verified by the applicant in the manner required by law for the verification of statements.

**74.** In such case, and also where such denial of the application as aforesaid is made before a Registrar in respect of a document presented for registration to him, the Registrar shall, as soon as conveniently may be, enquire—

- (a) whether the document has been executed ;
- (b) whether the requirements of the law for the time being in force have been complied with on the part of the applicant or person presenting the document for registration, as the case may be, so as to entitle the document to registration

**75.** (1) If the Registrar finds that the document has been executed and that the said requirements have been complied with, he shall order the document to be registered.

(2) If the document is duly presented for registration within thirty days after the making of an order, the registering officer shall obey the

same and thereupon shall, so far as may be practicable, follow the procedure prescribed in sections 58, 59 and 60.

(3) Such registration shall take effect as if the document had been registered when it was first duly presented for registration.

(4) The Registrar may, for the purpose of any enquiry under section 74, summon and enforce the attendance of witnesses, and compel them to give evidence, as if he were a Civil Court, and he may also direct by whom the whole or any part of the costs of any such enquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure, Act, No. V of 1908.

Order of refusal  
by Registrar

**76. (1) Every Registrar refusing—**

- (a) to register a document except on the ground that the property to which it relates does not situate within his district or that the document ought to be registered in the office of a Sub-Registrar, or
- (b) to direct the registration of a document under section 72 or section 75,

shall make an order of refusal and record the reasons for such order in his Book No. 2, and, on application made by any person executing or claiming under the document, shall, without unnecessary delay, give him a copy of the reasons so recorded.

(2) No appeal lies from any order by a Magistrate under this section or section 72.

**77.** (1) Where the Registrar refuses to order the document to be registered, under section 72 or section 76, any person claiming under such document, or his representative, assign or agent, may, within thirty days after making of the order of refusal, institute in the Civil Court, within the local limits of whose original jurisdiction is situate the office in which the document is sought to be registered, a suit for a decree directing the document to be registered in such suit, so if it be duly presented for registration within thirty days after the passing of such decree.

(2) The provisions contained in sub-sections (2) and (3) of section 75 shall, *mutatis mutandis*, apply to all documents presented for registration in accordance with any such decree, and, notwithstanding anything contained in this Act, the document shall be receivable in evidence in such suit.

PART XIII.  
OF THE FEES FOR REGISTRATION, SEARCHES  
AND COPIES.

**78.** Subject to the approval of the Government, the Local Government shall prepare a table of fees payable—

Fees to be fixed  
by Local Govern-  
ment

- (a) for the registration of documents ;
  - (b) for searching the registers ;
  - (c) for making or granting copies of reasonings or documents, before, on or at registration ;
- and of extra or additional fees payable—
- (d) for every registration under section 30 ;
  - (e) for the issue of commissions ;
  - (f) for filing translations ;
  - (g) for attending at private residences ;
  - (h) for the safe custody and return of documents ; and
  - (i) for such other matters as appear to the Local Government necessary to effect the purposes of this Act.

**79.** A table of the fees so payable shall be published in the official Gazette, and a copy thereof in English and

Publication  
of  
fees

vernacular language of the district shall be exposed to public view in every registration

D. All fees for the registration of documents payable on presentation under this Act shall be payable on the presentation of such documents.

## PART XIV.

### OF PENALTIES.

Every registering officer appointed under this Act and every person employed in his office for the purposes of this Act, who being charged with the endorsing, copying, translating or registering of any document presented or deposited in pursuance of its provisions, endorses, copies, translates or registers such document in a manner which he knows to be incorrect, intending thereby to defraud or knowing it to be likely that he may thereby cause injury, as defined in the Indian Penal Act No. XLV of 1860 to any person, shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with

Penalty for making false statements, delivering false copies or transactions, false personation, and abetment

## 82. Whoever—

- (a) Intentionally makes any false statement whether on oath or not, and whether has been recorded or not, before a officer acting in execution of this Act in any proceeding or inquiry under the Act ; or
- (b) intentionally delivers to a registering officer in any proceeding under section 19 or section 21, a false copy or translation of a document, or a false copy of a map or plan ; or
- (c) falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding or enquiry under the Act ; or
- (d) abets anything made punishable by the Act ;

shall be punishable with imprisonment for a term which may extend to seven years, or with fine or with both.

33. (1) A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be commenced by or with the permission of the Inspector General, the Branch Inspector General of Sindh, the Registrar or the Sub-Registrar, whose territories, district or sub-district, as the case may be, the offence has been committed.

(2) Offences punishable under this Act shall be triable by any Court or officer exercising powers not less than those of a Magistrate of the first class.

34. (1) Every registering officer appointed under this Act shall be deemed to be a public servant within the meaning of the Indian Penal Code, Act No. XLV of 1860.

(2) Every person shall be legally bound to furnish information to such registering officer when required by him to do so.

(3) In section 228 of the Indian Penal Code, the words "judicial proceeding" shall be deemed to include any proceeding under this Act.



Penalty for making false statements, delivering false copies of transactions, false personation, and abetment

## 82. Whoever—

- (a) Intentionally makes any false statement whether on oath or not, and whether has been recorded or not, before an officer acting in execution of this Act in any proceeding or inquiry under the Act ; or
- (b) intentionally delivers to a registering officer in any proceeding under section 11 of section 21, a false copy or translation of a document, or a false copy of a map or plan ; or
- (c) falsely personates another, and in the assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other thing in any proceeding or enquiry under the Act ; or
- (d) abets anything made punishable by the Act ;

shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

**83.** (1) A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be commenced by or with the permission of the Inspector General, the Branch Inspector General of Sindh, the Registrar or the Sub-Registrar, in whose territories, district or sub-district, as the case may be, the offence has been committed.

(2) Offences punishable under this Act shall be triable by any Court or officer exercising powers not less than those of a Magistrate of the second class.

**84.** (1) Every registering officer appointed under this Act shall be deemed to be a public servant within the meaning of the Indian Penal Code, Act No. XLV of 1860.

(2) Every person shall be legally bound to furnish information to such registering officer when required by him to do so.

(3) In section 228 of the Indian Penal Code, the words "judicial proceeding" shall be deemed to include any proceeding under this Act.

Penalty for making false statements, delivering false copies or transactions, false personation, and abetment

## 82. Whoever—

(a) Intentionally makes any false statement whether on oath or not, and whether it has been recorded or not, before an officer acting in execution of this Act in any proceeding or inquiry under the Act ; or

(b) intentionally delivers to a registering officer in any proceeding under section 11 of section 21, a false copy or translation of a document, or a false copy of a map or plan ; or

(c) falsely personates another, and in assumed character presents any document, or makes any admission or statement, or causes any summons or process to be issued, or does any act in any proceeding or enquiry under the Act ; or

(d) abets anything made punishable under the Act ;

shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

**83.** (1) A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be commenced by or with the permission of the Inspector General, the Branch Inspector General of Sindh, the Registrar or the Sub-Registrar, in whose territories, district or sub-district, as the case may be, the offence has been committed.

(2) Offences punishable under this Act shall be triable by any Court or officer exercising powers not less than those of a Magistrate of the second class.

**84.** (1) Every registering officer appointed under this Act shall be deemed to be a public servant within the meaning of the Indian Penal Code, Act No. XLV of 1860.

(2) Every person shall be legally bound to furnish information to such registering officer when required by him to do so.

(3) In section 228 of the Indian Penal Code, the words "judicial proceeding" shall be deemed to include any proceeding under this Act.

## PART XV.

## MISCELLANEOUS.

**85.** Documents (other than wills) remain-  
Destruction of un- unclaimed in any registration office  
claimed documents. for a period exceeding two years may  
 be destroyed.

**86.** No registering officer shall be liable to  
Registering officer any suit, claim or demand by reason  
not liable for thing of anything in good faith done or  
done or refused in his official  
capacity capacity.

**87.** Nothing done in good faith pursuant to  
Nothing so done this Act or any Act hereby repealed,  
invalidated by de- by any registering officer, shall be  
fect in appointment deemed invalid merely by reason of  
or procedure any defect in his appointment or procedure.

**88.** (1) Notwithstanding anything herein con-  
Registration of tained, it shall not be necessary for  
documents executed any officer of Government, or for  
by Government the Administrator General of Ben-  
officers or certain gal, Madras or Bombay, or for any  
public function- Official Trustee or Official Assignee, or for the  
aries Sheriff, Receiver or Registrar of a High Court, to  
 appear in person or by agent at any registra-  
 tion office in any proceeding connected with the

tration of any instrument executed by him in official capacity, or to sign as provided in section 58.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer it to any Secretary to Government or to such other officer of Government, Administrator General, Judicial Trustee, Official Assignee, Sheriff, Receiver and Registrar, as the case may be, for information respecting the same, and, on being satisfied of the validity of the instrument, shall register the instrument.

9. (1) Every officer granting a loan under the Land Improvement Loans Act, No. XIX of 1883, shall send a copy of his order to the registering officer of the local limits of whose jurisdiction the land to be improved or of which any part of the land to be improved or of which any part of the land to be improved or of which any part of the land to be improved is to be granted as collateral security, is situated, and such registering officer shall file the same in his Book No. 1.

(2) Every Court granting a certificate of title in immovable property under the Code of Civil Procedure, Act No. V of 1908, shall send a copy of the certificate to the registering officer within

local limits of whose jurisdiction the whole or any part of the immoveable property comprised in such certificate is situate, and such officer shall file the copy in his Book No. 1.

(3) Every officer granting a loan under the Agriculturists' Loans Act, No. XII of 1884, shall send a copy of any instrument whereby immoveable property is mortgaged for the purpose of securing the repayment of the loan, and, if any such property is mortgaged for the same purpose in the order granting the loan, a copy also of that order, to the registering officer within the local limits of whose jurisdiction the whole or any part of the property so mortgaged is situate, and such registering officer shall file the copy or copies, as the case may be, in his Book No. 1.

(1) Every Revenue-officer granting a certificate of sale to the purchaser of immoveable property sold by public auction shall send a copy of the certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the property comprised in the certificate is situate, and such officer shall file the copy in his Book No. 1.

*Exemptions from Act.*

90. (1) Nothing contained in this Act or in the Indian Registration Act, No. III of 1877, or in the Indian Registration Act, No. VIII of 1871, or in any Act thereby repealed shall be deemed to require, to have at any time required, the registration of any of the following documents or maps, namely:—
- (a) documents issued, received or attested by any officer engaged in making a settlement or revision of settlement of land-revenue, and which form part of the records of such settlement, or
  - (b) documents and maps issued, received or authenticated by any officer engaged on behalf of Government in making or revising the survey of any land, and which form part of the record of such survey; or
  - (c) documents which, under any law or the time being in force, are filed periodically in any revenue-office by patwaris or other officers charged with the preparation of village-records; or
  - (d) sanads, inam title-deeds and other documents purporting to be or to evidence grants or



assignments by Government of land or any interest in land ; or

- (c) notices given under section 74 or section of the Bombay Land-revenue Code, A No. V of 1879, of relinquishment of occupancy by occupants, or of alienated land by holders of such land.

(2) All such documents and maps shall for the purposes of sections 48 and 49, be deemed to have been and to be registered in accordance with the provisions of this Act.

91. Subject to such rules and the previous *Inspection and copies of such documents* payment of such fees as the Local Government prescribes in this behalf, all documents and maps mentioned in section 48, clauses (a), (b), (c) and (e), and all registers of the documents mentioned in clause (d), shall be open to the inspection of any person applying to inspect the same, and, subject as aforesaid, copies of such documents shall be given to all persons applying for such copies.

92. All rules relating to registration enforced *Burmese registration-rules confirmed.* in Lower Burma prior to the commencement of the Indian Registration Act No. III of 1877, shall be deemed to have

had the force of law, and no suit or other proceeding shall be maintained against any officer or other person in respect of anything done under any of the said rules.

*Repeals.*

**93.** (1) The enactments mentioned in the schedule are repealed to the extent specified in the fourth column thereof.

Repeals.

(2) Nothing herein contained shall be deemed to affect any provision of any enactment in force in any part of British India and not hereby expressly repealed.

# THE SCHEDULE.

## REPEAL OF ENACTMENTS.

(See section 93.)

| Year | No.  | Short title.                                             | Extent of repeal                                                |
|------|------|----------------------------------------------------------|-----------------------------------------------------------------|
| 1877 | III  | The Indian Registration Act, 1877.                       | The whole.                                                      |
| 1879 | XII  | The Registration and Limitation Acts Amendment Act, 1879 | So much as is hereby repealed.                                  |
| 1881 | XIX  | The Land Improvement Loans Act, 1881.                    | So much of sect. 12 as is hereby repealed.                      |
| 1886 | VII  | The Indian Registration Act, 1886                        | The whole                                                       |
| 1888 | VII  | The Civil Procedure Code Amendment Act, 1888             | So much as is hereby repealed.                                  |
| 1891 | XII  | The Amending Act, 1891                                   | In the second schedule the entries relating to Act III of 1877. |
| 1899 | XVII | The Indian Registration (Amendment) Act, 1899.           | The whole.                                                      |

## Statement of Objects and Reasons.

1. This is a pure consolidating Bill. The provisions relating to the registration of documents are now scattered about even enactments. The object of the present Bill is to collect these provisions and to incorporate them in one Act. It will make the law more easily ascertainable. It will gather clear the Statute-book of three entire Acts and will enable two more Acts to be entirely removed from it on the coming into force of the Code of Civil Procedure, 1908, and the Indian Limitation Bill, now before Council.

2. The fact that the General Clauses Act 1897, will apply to the Bill when passed has rendered it unnecessary to amend some provisions of the present Acts. The opportunity has been taken to incorporate alterations of a formal character intended merely to improve and simplify the language of the existing Act. The numbering of the sections of the Act of 1877 has been preserved.

3. It has been found that the mere process of consolidation might result in the law being changed in some respects. To avoid this some few amendments appear to be necessary, and to these reference is made in the *Notes on Clauses* below.

4. A table showing the disposal of the sections of the old Act is appended to this Statement.

*The 22nd July 1908.*

H. ERLE RICHARDS.



voided by a later registered document of which registration is compulsory only if the latter document has been registered under the Act of 1877 (*Shivram v. Sija*, I. L. R. Bom 229). The effect of leaving the words as they are is that by virtue of section 3 (45) of the General Clauses Act, 1897, they would mean "registered under the law for the time being in force." Accordingly a document registered under any Act prior to the Act of 1877 would have priority over a previous unregistered document. It would after the law as interpreted in Bombay; but as it is not quite clear what is the view taken of the section by other High Courts the wording of the section has been left unaltered for the present. Attention is invited to the effect of this.

*Clause 93 (2).*—The provisions of the Act relating to compulsory registration have to a great extent been superseded by the provisions of section 54 and 59 of the Transfer of Property Act, 1882, in cases to which that Act extends. Special provisions relating to the registration of certain documents are also contained in some other later enactments, for instance, in section 12 of the Bengal Tenancy Act. Clause 93 (2) is inserted to make it clear beyond doubt that the re-enactment of these partially superseded provisions of the Registration Act is not intended to effect any alteration in the existing law.

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special exception into the clause but would suggest that exclusion of Upper Burma may be left to be effected by order of the Government of Burma.

1. We recommend that the Bill should come into operation on the 1st January, 1909.

2. We have suggested an addition to clause 50 to meet difficulty pointed out in the Statement of Objects and Reasons. Section 50 of the Registration Act of 1877 conferred priority for the first time on certain documents if duly registered and the section has been construed in Calcutta at least as covering documents registered under any Act for the time being in force, while in Bombay and certain other provinces it has been read as limited to documents registered under the Act of 1877, and under that Act alone. Clause 50 of the Bill reproduces section 50 of the Act of 1877, but the provisions of section 3 (45) of the General Clauses Act, 1897, which would apply to the Bill when passed, would negative the construction put on the section in Bombay. The Government of Bombay is willing to accept this alteration, but objection has been taken to it in other provinces on the ground that it would deprive documents registered before the Act of 1877 of priority which they do not at present possess. To remove this objection we have proposed to add to sub-clause (2) a proviso which would keep these documents in the same position regarding priority as they occupy under the law at present.

3. The other alterations suggested by us are of a formal and unimportant character and do not call for any explanation.







6. In the papers submitted to us we find various suggestions for alterations of substance in the law of registration and these we have forwarded to the Administrative Departments concerned for their consideration. This Bill is a consolidating Bill pure and simple, and though it is inevitable that when such a Bill is put forward amendments should be suggested, we think that they should not be entertained. On examination the amendments meet with approval they will have to be circulated for the opinion of Local Governments and others, and this will be a lengthy process. The consolidation effected by this Bill will not prevent a subsequent amending Bill ; on the contrary it will greatly facilitate its passage.

TABLE SHOWING DISPOSAL OF THE  
SECTIONS OF ACT NO. III OF 1877 AND OF  
THE AMENDING ENACTMENTS.

| Sections.               | Clause of the Bill | REMARKS                                                                                                            |
|-------------------------|--------------------|--------------------------------------------------------------------------------------------------------------------|
| <i>Act III of 1877—</i> |                    |                                                                                                                    |
| paragraphs 1, 2         | 1                  |                                                                                                                    |
| paragraph 3             | Omitted.           | The consolidating Act will come into force at once.                                                                |
| paragraph 4             | Do.                | See General Clauses Act, 1897, section 21.                                                                         |
| paragraph 1             | C/ 93 (1)          |                                                                                                                    |
| paragraph 2             | Omitted            | See General Clauses Act, 1897 section 24                                                                           |
| paragraph 3             | Do.                | See General Clauses Act, 1897, section 8                                                                           |
| ...                     | 2                  | Clause relating to "signature" and "signed" omitted see General Clauses Act, 1897, section 3 (32)                  |
| paragraphs 1, 2         | 3                  |                                                                                                                    |
| paragraphs 3, 4         | 4                  |                                                                                                                    |
| to 22                   | 5 to 22            | In Clause 11 the words "where there is a Cantonment Magistrate" have been omitted see Act XIII of 1889, section 5. |
| paragraphs 1, 11        | 23                 |                                                                                                                    |
| paragraph 3             | 24                 |                                                                                                                    |
|                         | 25                 |                                                                                                                    |

*Table showing disposal of the sections of Act III of 1877 and of the amending enactments.—(contd.)*

| Sections.                          | Clause of the Bill. | REMARKS                                                    |
|------------------------------------|---------------------|------------------------------------------------------------|
| 26                                 | 26                  |                                                            |
| 26                                 | Omitted             | See General Clauses Act I section 10 (1)                   |
| 27 to 77                           | 27 to 77            |                                                            |
| 78, paragraph 1                    | 78                  |                                                            |
| 78, paragraph 2                    | Omitted.            | See General Clauses Act, 1 <sup>st</sup> section 21.       |
| 79 to 82                           | 79 to 82            |                                                            |
| 83, paragraphs 1, 2                | 83                  |                                                            |
| 83, paragraph 3                    | Omitted.            | See Criminal Procedure Co <sup>d</sup> . 1898, Chapter III |
| 83, paragraph 4                    | Do.                 | See General Clauses Act, 1 <sup>st</sup> section 25.       |
| 84 to 92                           | 84 to 92            |                                                            |
| Art VII of 1879—<br>Section 104    | See 35 (2)          |                                                            |
| " 105                              | See 51 (2).         |                                                            |
| " 106                              | See 87 (2).         |                                                            |
| " 107                              | See 89 (2).         |                                                            |
| Art XIX of 1883—<br>Section 12 (1) | See 17 (2) (ix)     |                                                            |
| " 12 (3)                           | See 89 (1)          |                                                            |
| Art VII of 1886—<br>Section 1      | Omitted             | Short title and commencement                               |
| " 2                                | See 17 (2) (ul)     |                                                            |
| " 3 (1)                            | See 17 (2) (x)      |                                                            |

*Table showing disposal of the sections of Act III of 1877 and of the amending enactments —(concl'd.)*

| Sections                                        | Class of the Bill | REMARKS.                                                                                 |
|-------------------------------------------------|-------------------|------------------------------------------------------------------------------------------|
| Section 3 (2)                                   | See 58 (i)        |                                                                                          |
| " 3 (3)                                         | See 59 (3)        |                                                                                          |
| " 4                                             | See 17 (2) (xi)   |                                                                                          |
| " 5                                             | See 50 (2)        |                                                                                          |
| " 6 (1)                                         | See 90 (1) (e)    |                                                                                          |
| " 6 (2)                                         | See 71.           |                                                                                          |
| " 6 (3)                                         | Omitted           | Unnecessary, it gives retrospective effect to the amendments effected by section 6       |
| Act VII of 1888—<br>Section 56 (1)              | See 71 (2)        |                                                                                          |
| " 56 (2)                                        | See 70 (2)        |                                                                                          |
| " 56 (3)                                        | Omitted           | It gives retrospective operation to the amendment and reverses previous orders of Courts |
| Act XII of 1897                                 |                   |                                                                                          |
| Schedule II—Entries relating to Act III of 1877 |                   |                                                                                          |
| No 1                                            | Omitted           | See General Clauses Act 1897 section 21                                                  |
| No. 2                                           | Omitted           | See General Clauses Act 1897, section 21                                                 |
| No 3                                            | See 59 (4)        |                                                                                          |
| No. 4                                           | See 90 (e)        |                                                                                          |
| Act XI of 1894—<br>Section 1                    | Omitted           | Short title and commencement                                                             |
| 2                                               | See 22            |                                                                                          |



**ACT IX OF 1908.**

# **THE INDIAN LIMITATION ACT**

**WITH**

**THREE SCHEDULES.**

**Passed by the Governor-General of India  
in Council**



**Published by—RAM NARAIN LAL,  
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**1910.**





# THE INDIAN LIMITATION ACT, 1908 (IX OF 1908).

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# ACT NO. IX OF 1908.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN C  
obtained the assent of the Governor-General o  
(August, 1908)

An Act to consolidate and amend the law for the la  
of Suits, and for other purposes

WHEREAS it is expedient to consolidate and am  
law relating to the limitation of suits, appe  
certain applications to Courts, and whereas it is a  
pulent to provide rules for acquiring by possessio  
ownership of easements and other property, It is h  
enacted as follows:—

## PART I

### PRELIMINARY

Short title, extent  
and commencement

1. (1) This Act may be called  
Indian Limitation Act, 1908

(2) It extends to the whole of British India, and  
(a) This section and section 31 shall come into force  
once. The rest of this Act shall come into force on the fir  
day of January, 1909

### Definitions.

2. In this Act, unless there is any  
thing repugnant in the subject  
context,—

- (1) "applicant" includes any person from or through  
whom an applicant derives his right to apply
- (2) "bill of exchange" includes a hundi and a cheque
- (3) "bond" includes any instrument whereby a person  
obliges himself to pay money to another, on condition that  
the obligation shall be void if a specified act is performed  
or is not formed as the case may be
- (4) "defendant" includes any person from or through  
whom a defendant derives his liability to be sued.

(5) "easement" includes a right not arising from contract, by which one person is entitled to remove and appropriate for his own profit any part of the soil belonging to another or anything growing in, or attached to, or subsisting upon, the land of another.

(6) "foreign country" means any country other than British India:

(7) "good faith" nothing shall be deemed to be done in good faith which is not done with due care and attention.

(8) "plaintiff" includes any person from or through whom a plaintiff derives his right to sue.

(9) "promissory note" means any instrument whereby he makes engages absolutely to pay a specified sum of money to another at a time therein limited, or on demand, or at sight:

(10) "suit" does not include an appeal or an application and

(11) "trustee" does not include a benamidar, a mortgagee remaining in possession after the mortgage has been satisfied, or a wrong-doer in possession without title.

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## PART II

### LIMITATION OF SUITS, APPEALS AND APPLICATIONS

3. Subject to the provisions contained in sections 4 to 25 (inclusive), every suit instituted, appeal preferred, and application made, after the period of limitation prescribed therefor by the first schedule shall be dismissed, although limitation has not been set up as a defence.

*Explanation.*—A suit is instituted, in ordinary cases, when the plaint is presented to the proper officer; in the case of a pauper, when his application for leave to sue as a pauper is made; and, in the case of a claim against

company which is being wound up by the Court, when the claimant first sends in his claim to the official liquidator

4. Where the period of limitation prescribed for any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, preferred or made on the day that the Court re-opens.

5. Any appeal or application for a review of judgment or for leave to appeal or any other application to which this section may be made applicable by any enactment or rule for the time being in force may be admitted after the period of limitation prescribed therefor, when the appellant or applicant satisfies the Court that he had sufficient cause for not bringing the appeal or making the application within such period.

*Explanation*—The fact that the appellant or applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period of limitation may be sufficient cause within the meaning of this section.

6. (1) Where a person entitled to institute a suit or make an application for the execution of a decree is, at the time from which the period of limitation is to be reckoned, a minor, insane, or an idiot, he may institute the suit or make the application within the same period after the disability has ceased, as would otherwise have been allowed from the time prescribed therefor in the third column of the first schedule.

(2) Where such person is, at the time from which the period of limitation is to be reckoned, affected by two such disabilities or where, before his disability has ceased, he is affected by another disability, he may institute the suit or make the application within the same period, after

both disabilities have ceased, as would otherwise have been allowed from the time so prescribed.

(3) Where the disability continues up to the death of such person, his legal representative may institute the suit or make the application within the same period after the death as would otherwise have been allowed from the time so prescribed.

(4) Where such representative is at the date of the death affected by any such disability, the rules contained in sub-sections (1) and (2) shall apply.

### *Illustrations*

(a) The right to sue for the hire of a boat accrues to A during his minority. He attains majority four years after such accrual. He may institute his suit at any time within three years from the date of his attaining majority.

(b) A right to sue accrues to Z during his minority. After the accrual, but while Z is still a minor, he becomes insane. Time runs against Z from the date when his insanity and minority cease.

(c) A right to sue accrues to X during his minority. X dies before attaining majority, and is succeeded by Y, his minor son. Time runs against Y from the date of his attaining majority.

7. Where one of several persons jointly entitled to institute a suit or make an application for the execution of a decree is under any such disability, and a discharge can be given without the concurrence of such person, time will run against them all; but, where no such discharge can be given, time will not run as against any of them until one of them becomes capable of giving such discharge without the concurrence of the others or until the disability has ceased.

### *Illustrations*

(a) A incurs a debt to a firm of which B, C and D are partners. B is insane, and C is a minor. D can give a discharge of the debt without the concurrence of B and C. Time runs against B, C and D.

(b) A incurs a debt to a firm of which E, F and G are partners. E and F are insane, and G is a minor. Time will not run against them until either E or F becomes sane, or G attains majority.



8. Nothing in section 6 or in section 7 applies to suits to enforce rights of pre-emption, or shall be deemed to extend, for more than three years from the cessation of the disability or the death of the person affected thereby, the period within which any suit must be instituted or application made.

### Illustrations.

(a) A, to whom a right to sue for a legacy has accrued during his minority, attains majority eleven years after such accrual. A dies under a disability. But as he attains majority within the time prescribed by section 6, his right to sue is not barred.

(b) A right to sue for an hereditary office accrues to A who at the time is insane. Six years after the accrual A recovers his reason. A has six years, under the ordinary law, from the date when his insanity ceased within which to institute a suit. No extension of time will be given him under section 6 read with this section.

(c) A right to sue as landlord to recover possession from a tenant accrues to A, who is an idiot. A dies three years after the accrual, his idioecy continuing up to the date of his death. A's representative in interest has, under the ordinary law, nine years from the date of A's death within which to bring a suit. Section 6 read with this section does not extend that time, except where the representative is himself under disability when the representation devolves upon him.

9. Where once time has begun to run, no subsequent continuous disability or inability to sue stops it:

Provided that, where letters of administration to the estate of a creditor have been granted to his debtor, the running of the time prescribed for a suit to recover the debt shall be suspended while the administration continues.

10. Notwithstanding anything hereinbefore contained no suit against a person in whom property has become vested in trust for any specific purpose, or against his legal representatives or assigns (not being assigns for valuable consideration), for the purpose of

allowing in his or then hands such property, or the proceeds hereof, or for an account of such property or proceeds, shall be barred by any length of time

11. (1) Suits instituted in British India on contracts entered into in a foreign country are subject to the rules of limitation contained in this Act

(2) No foreign rule of limitation shall be a defence to a suit instituted in British India on a contract entered into in a foreign country, unless the rule has extinguished the contract and the parties were domiciled in such country during the period prescribed by such rule

### PART III

#### COMPUTATION OF PERIOD OF LIMITATION.

12. (1) In computing the period of limitation prescribed for any suit, appeal or application in legal proceedings, the day from which such period is to be reckoned shall be excluded.

(2) In computing the period of limitation prescribed for an appeal, an application for leave to appeal and an application for a review of judgment, the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree, sentence or order appealed from or sought to be reviewed, shall be excluded.

(3) Where a decree is appealed from or sought to be reviewed, the time requisite for obtaining a copy of the judgment on which it is founded shall also be excluded.

the time requisite for  
the time requisite for  
be excluded.

13. In computing the period of limitation prescribed for any suit, the time during which the defendant has been absent from British India and from the territories beyond British India under the administration of the Government shall be excluded.

*Exclusion of time of defendant's absence from British India and certain other territories*

for any suit, the time during which the defendant has been absent from British India and from the territories beyond British India under the administration of the Government shall be excluded.

14. (1) In computing the period of limitation prescribed for any suit, the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a Court of first instance or in a Court of appeal, against the defendant shall be excluded, where the proceeding is founded upon the same cause of action and is prosecuted in good faith in a Court which, from defect of jurisdiction, or other cause of a like nature, is unable to entertain it.

*Exclusion of time of proceeding bona fide in Court without jurisdiction.*

which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a Court of first instance or in a Court of appeal, against the defendant shall be excluded, where the proceeding is founded upon the same cause of action and is prosecuted in good faith in a Court which, from defect of jurisdiction, or other cause of a like nature, is unable to entertain it.

(2) In computing the period of limitation prescribed for any application, the time during which the applicant has been prosecuting with due diligence another civil proceeding, whether in a Court of first instance or in a Court of appeal, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith in a Court which, from defect of jurisdiction, or other cause of a like nature, is unable to entertain it.

*Explanation I.*—In excluding the time during which a former suit or application was pending, the day on which that suit or application was instituted or made, and the day on which the proceedings therein ended, shall both be counted.

*Explanation II.*—For the purposes of this section, a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding.

*Explanation III.*—For the purposes of this section misjoinder of parties or of causes of action shall be deemed to be a cause of a like nature with defect of jurisdiction.

For the purposes of this section misjoinder of parties or of causes of action shall be deemed to be a cause of a like nature with defect of jurisdiction.

15. (1) In computing the period of limitation prescribed for any suit or application for the execution of a decree, the institution or execution of which has been stayed by injunction or order, the time of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded

(2) In computing the period of limitation prescribed for any suit of which notice has been given in accordance with the requirements of any enactment for the time being in force, the period of such notice shall be excluded

16. In computing the period of limitation prescribed for a suit for possession by a purchaser at a sale in execution of a decree, the time during which a proceeding to set aside the sale has been prosecuted shall be excluded

17. (1) Where a person who would, if he were living, have a right to institute a suit or make an application, dies before the right accrues, the period of limitation shall be computed from the time when there is a legal representative of the deceased capable of instituting or making such suit or application

(2) Where a person against whom, if he were living, a suit to institute a suit or make an application would have accrued dies before the right accrues, the period of limitation shall be computed from the time when there is a legal representative of the deceased against whom the plaintiff may institute or make such suit or application

(3) Nothing in sub-sections (1) and (2) applies to suits to enforce rights of pre-emption or to suits for the recovery of immovable property or of an hereditary office.

18. Where any person having a right to institute a suit

*Effect of fraud.*

or make an application has, by means of fraud, been kept from the knowledge of such right or of the title on which it is founded,

or where any document necessary to establish such right has been fraudulently concealed from him,

the time limited for instituting a suit or making an application—

(a) against the person guilty of the fraud or accessary thereto, or

(b) against any person claiming through him otherwise than in good faith and for a valuable consideration,

shall be computed from the time when the fraud first became known to the person injuriously affected thereby; or, in the case of the concealed document, when he first had the means of producing it or compelling its production.

19. (1) Where, before the expiration of the period

*Effect of acknowledgment in writing.* prescribed for a suit or application in respect of any property or right, an acknowledgment of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by some person through whom he derives title or liability, a fresh period of limitation shall be computed from the time when the acknowledgment was so signed.

(2) Where the writing containing the acknowledgment is undated, oral evidence may be given of the time when it was signed; but, subject to the provisions of the Indian

Evidence Act, 1872, oral evidence of its contents shall not be received.

*Explanation I.*—For the purposes of this section an acknowledgment may be sufficient though it omits to specify the exact nature of the property or right, or avers that

the time for payment, delivery, performance or enjoyment has not yet come, or is accompanied by a refusal to pay, deliver, perform or permit to enjoy, or is coupled with a claim to a set-off, or is addressed to a person other than the person entitled to the property or right.

*Explanation II.*—For the purposes of this section, "signed" means signed either personally or by an agent duly authorized in this behalf.

*Explanation III.*—For the purposes of this section an application for the execution of a decree or order is an application in respect of a right

**20.** (1) Where interest on a debt or legacy is, before the expiration of the prescribed period, paid as such by the person liable to pay the debt or legacy, or by his agent duly authorized in this behalf,

Effect of payment of interest as such or part payment of principal. or where part of the principal of a debt is, before the expiration of the prescribed period, paid by the debtor or his agent duly authorized in this behalf,

a fresh period of limitation shall be computed from the time when the payment was made

Provided that, in the case of part payment of the principal of a debt, the fact of the payment appears in the indwritings of the person making the same.

(2) Where mortgaged land is in the possession of the mortgagee, the receipt of the rent or produce of such land shall be deemed to be a payment for the purpose of subsection (1)

*Explanation* --Debt includes money payable under a decree or order of Court

**21.** (1) The expression "agent duly authorized in this behalf," in sections 19 and 20, shall, in the case of a person under disability, include his lawful guardian, committee or manager.

or an agent duly authorized by such guardian, committee or manager to sign the acknowledgment or make the payment

(2) Nothing in the said sections renders one of several joint contractors, partners, executor or mortgagees chargeable by reason only of a written acknowledgment signed or a payment made by, or by the agent any other or others of them.

22. (1) Where, after the institution of a suit, a plaintiff or defendant is substituted added, the suit shall, as regards him be deemed to have been instituted when he was so made a party.

(2) Nothing in sub-section (1) shall apply to a case where a party is added or substituted owing to an assignment or devolution of any interest during the pendency of a suit or where a plaintiff is made a defendant or a defendant is made a plaintiff.

23. In the case of a continuing breach of contract and in the case of a continuing wrong independent of contract, a fresh period of limitation begins to run at every moment of the time during which the breach or the wrong, as the case may be, continues.

24. In the case of a suit for compensation for an act which does not give rise to a cause of action unless some specific injury actually results therefrom, the period of limitation shall be computed from the time when the injury results.

#### *Illustration.*

A owns the surface of a field. B owns the subsoil. B digs coal thereout without causing any immediate apparent injury to the surface, but at last the surface subsides. The period of limitation in the case of a suit by A against B runs from the time of the subsidence.

25. All instruments shall, for the purposes of this Act, be deemed to be made with reference to the Gregorian calendar.

Computation of time mentioned in instruments,

### *Illustrations*

- (a) A Hindu makes a promissory note bearing a Native date only. The period of limitation on the expiration of four years from the date of the note shall be computed according to the Gregorian calendar.
- (b) A Hindu makes a bond, bearing a Native date only, for the repayment of money within one year. The period of limitation applicable to a suit on the bond runs from the expiration of one year after date computed according to the Gregorian calendar.

## PART IV.

### ACQUISITION OF OWNERSHIP BY POSSESSION.

26. (1) Where the access and use of light or air to and for any building have been peaceably enjoyed therewith as an easement, and as of right, without interruption, and for twenty years,

and where any way or watercourse, or the use of any water, or any other easement (whether affirmative or negative) has been peaceably and openly enjoyed by any person claiming title thereto as an easement and as of right without interruption, and for twenty years,

the right to such access and use of light or air, way, watercourse, use of water, or other easement shall be absolute and indefeasible.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

(2) Where the property over which a right is claimed under sub-section (1) belongs to Government, that section shall be read as if for the words "twenty years" the words "sixty years" were substituted.



*Explanation*—Nothing is an interruption within the meaning of this section, unless where there is an actual discontinuance of the possession or enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to and acquiesced in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

### *Illustrations.*

(a) A suit is brought in 1911 for obstructing a right of way. The defendant admits the obstruction, but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him, claiming title thereto as an easement and as of right without interruption from 1st January 1890 to 1st January 1911. The plaintiff is entitled to judgment.

... it shows that the right was peaceably and openly enjoyed for twenty years. The defendant proving the twenty years, had as of right it shall be dismissed.

27. Where any land or waters upon, over or from which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or term of years exceeding three years from the grant thereof, the time of the enjoyment of such easement during the continuance of such interest or term shall be excluded in the computation of the period of twenty years in case the claim is, within three years next after the determination of such interest or term, resisted by a person entitled, on such determination, to the said land or water.

### *Illustration*

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty years, but B shows that during ten of these years C, a life tenant, had a life interest in the land, that on C's death he contested A's claim to the right. The suit was dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

28. At the determination of the period hereby limited to any person for instituting a suit for possession of any property, his right to such property shall be extinguished.

## PART V

### SAVINGS AND REPEALS

29. (1) Nothing in this Act shall—  
 (a) affect the Indian Contract Act, 1872, section 25  
 (b) affect or alter any period of limitation specially prescribed for any suit, appeal or application by any special or local law now or hereafter in force in British India.

(2) Nothing in this Act shall apply to suits under the Indian Divorce Act.

(3) Sections 26 and 27 and the definition of "easement" in section 2 shall not apply to cases arising in territories to which the Indian Easements Act, 1882, may for the time being extend.

30. Notwithstanding anything herein contained, any suit for which the period of limitation prescribed by this Act is shorter than the period of limitation prescribed by the Indian Limitation Act, 1877, may be instituted within the period of two years next after the passing of this Act, or within the period prescribed for such suit by the Indian Limitation Act, 1877, whichever period expires first.

31. (1) Notwithstanding anything contained in this Act or in the Indian Limitation Act, 1877, in the territories mentioned in the second schedule a suit for foreclosure or a suit for sale by a mortgagee may be instituted within two years from the date of the passing of this Act or within the

years from the date when the money secured by the mortgage became due, whichever period expires first and no such suit in the said territories instituted within the said period of sixty years and pending at the date of the passing of this Act, either in a Court of first instance or of appeal, shall be dismissed on the ground that twelve years' rule of limitation is applicable.

(2) Where in the aforesaid territories the claim of a mortgagee for foreclosure or for sale has been wholly or in part dismissed or withdrawn after the twenty-seventh day of July, 1907, and before the passing of this Act either in a court of first instance or of appeal on the ground that a twelve years' rule of limitation applied to such claim, the case may be restored on an application in writing to the Court by which the claim was dismissed or in which it was withdrawn, provided the application is made within six months from the date of the passing of this Act; and on such restoration, the provisions of sub-section (1) shall apply.

32. The enactments mentioned in the third schedule  
 Repeals are repealed to the extent specified in  
 the fourth column thereof

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# THE FIRST SCHEDULE.

(See section 3.)

## FIRST DIVISION: SUITS.

| Description of suit                                                                                                                              | Period of limitation.                                             | Time from which period begins to run                                                  |
|--------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| To contest an award of the Board of Revenue under the Waste Lands (Claims) Act, 1863                                                             | <p><i>Part I.—</i><br/><i>Thirty days</i></p> <p>Thirty days</p>  | <p>When notice of the award is delivered to the plaintiff</p> <p>XX<br/>o<br/>186</p> |
| For compensation for doing or for omitting to do an act alleged to be in pursuance of any enactment in force for the time being in British India | <p><i>Part II.—</i><br/><i>Ninety days</i></p> <p>Ninety days</p> | <p>When the act or omission takes place.</p>                                          |
| Under the Specific Relief Act, 1877, section 9, to recover possession of immovable property.                                                     | <p><i>Part III.—</i><br/><i>Six months.</i></p> <p>Six months</p> | <p>When the dispossession occurs</p> <p>I c<br/>187</p>                               |
| Under the Employers and Workmen (Disputes) Act, 1890, section 1.                                                                                 | <p>Ditto</p>                                                      | <p>When the wages, hire or price of work claimed is due or</p> <p>XI<br/>52</p>       |

THE FIRST SCHEDULE—*contd.*FIRST DIVISION : Suits—*contd.*

| Description of suit.                                                                                     | Period of limitation               | Time from which period begins to run                                                |
|----------------------------------------------------------------------------------------------------------|------------------------------------|-------------------------------------------------------------------------------------|
| 5 Under the summary procedure referred to in section 128 (2) (1) of the Code of Civil Procedure, 1908.   | <i>Part III.—Six months—contd.</i> |                                                                                     |
|                                                                                                          | Six months                         | When the debt liquidated does become payable or when the property becomes coverable |
| 6.—Upon a Statute, Act, Regulation or By-law, for a penalty or forfeiture                                | <i>Part IV.—One year.</i>          |                                                                                     |
|                                                                                                          | One year                           | When the penalty or forfeiture has occurred.                                        |
| 7.—For the wages of a household servant artisan or labourer not provided for by this schedule, article 1 | Ditto                              | When the wages are due                                                              |
| 8.—For the price of food or drink sold by the keeper of a hotel, tavern or lodging-house                 | Ditto                              | When the food or drink is delivered.                                                |
| 9.—For the price of lodging                                                                              | Ditto                              | When the price becomes payable                                                      |

THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

| Description of suit                                                                                                                                                | Period of limitation | Time from which period begins to run.                                                                                                                                                                                                       |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| —To enforce a right of pre-emption, whether the right is founded on law, or general usage, or on special contract                                                  | One year             | When the purchaser takes, under the sale sought to be impeached, physical possession of the whole of the property sold, or, where the subject of the sale does not admit of physical possession, when the instrument of sale is registered. |
| 1 By a person, against whom any of the following orders has been made to establish the right which he claims to the property comprised in the order                | Ditto                | The date of the order                                                                                                                                                                                                                       |
| (1) Order under the Code of Civil Procedure, 1908, on a claim preferred to, or an objection made to the attachment of, property attached in execution of a decree; |                      |                                                                                                                                                                                                                                             |

THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

| Description of suit.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Period of limitation           | Time from which period begins to run. |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|---------------------------------------|
| (2) Order under section 28 of the Presidency Small Cause Courts Act 1882.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <i>Part IV—One year—contd.</i> |                                       |
| 11A—By a person against whom an order has been made under the Code of Civil Procedure, 1908 upon an application by the holder of a decree for the possession of immovable property or by the purchaser of such property sold in execution of a decree, complaining of resistance or obstruction to the delivery of possession thereof, or upon an application by any person dispossessed of such property in the delivery of possession thereof to the decree-holder or purchaser, to establish the right which he claims to the present possession of the property comprised in the order | One year                       | The date of the order.                |

## THE FIRST SCHEDULE—contd

## FIRST DIVISION : SUIT—contd.

| Description of suit.                                                                                        | Period of limitation.          | Time from which period begins to run.                                                                          |
|-------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------------------------------------------------------------------|
|                                                                                                             | <i>Part IV.—One year—contd</i> |                                                                                                                |
| To set aside any of the following sales—                                                                    | One year                       | When the sale is confirmed, or would otherwise have become final and conclusive had no such suit been brought. |
| (a) sale in execution of a decree of a Civil Court,                                                         |                                |                                                                                                                |
| (b) sale in pursuance of a decree or order of a Collector or other officer of revenue,                      |                                |                                                                                                                |
| (c) sale for arrears of Government revenue, or for any demand recoverable as such arrears,                  |                                |                                                                                                                |
| (d) sale of a patni taluq sold for current arrears of rent                                                  |                                |                                                                                                                |
| Explanation. In this article 'patni' includes any intermediate tenure saleable for current arrears of rent. |                                |                                                                                                                |
| 3. To alter or set aside a decision or order of a Civil Court in any proceeding other than a suit           | Ditto                          | The date of the final decision or order in the case by a Court is potent to determine it finally.              |



THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

| Description of suit.                                                                                                                                                                                         | Period of limitation. | Time from which period begins to run                    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|---------------------------------------------------------|
| <i>Part IV.—One year—contd.</i>                                                                                                                                                                              |                       |                                                         |
| 14.—To set aside any act or order of an officer of Government in his official capacity, not herein otherwise expressly provided for                                                                          | One year              | The date of the act or order                            |
| 15.—Against Government to set aside any attachment, lease or transfer of immovable property by the revenue-authorities for arrears of Government revenue                                                     | Ditto                 | When the attachment, lease transfer is made             |
| 16.—Against Government to recover money paid under protest in satisfaction of a claim made by the revenue-authorities on account of arrears of revenue or on account of demands recoverable as such arrears. | Ditto                 | When the payment is made                                |
| 17.—Against Government for compensation for land acquired for public purposes.                                                                                                                               | Ditto                 | The date of determining the amount of the compensation. |
| 18.—Like suit for compensation when the acquisition is not completed                                                                                                                                         | Ditto                 | The date of the refusal to complete                     |

THE FIRST SCHEDULE—*contd*FIRST DIVISION, SUITS—*contd.*

| Description of suit                                                                               | Period of limitation | Time from which period begins to run                                                                                        |
|---------------------------------------------------------------------------------------------------|----------------------|-----------------------------------------------------------------------------------------------------------------------------|
| <i>Part IV.—One year—contd</i>                                                                    |                      |                                                                                                                             |
| For compensation for false imprisonment                                                           | One year             | When the imprisonment ends.                                                                                                 |
| By executors, administrators or representatives under the Legal Representatives' Suits Act, 1855. | Ditto                | The date of the death of the person wronged                                                                                 |
| By executors, administrators or representatives under the Indian Fatal Accidents Act, 1855        | Ditto                | The date of the death of the person killed                                                                                  |
| For compensation for any other injury to the person                                               | Ditto                | When the injury is committed                                                                                                |
| For compensation for a malicious prosecution                                                      | Ditto                | When the plaintiff is acquitted, or the prosecution is otherwise terminated                                                 |
| For compensation for libel                                                                        | Ditto                | When the libel is published.                                                                                                |
| For compensation for slander                                                                      | Ditto                | When the words are spoken, or, if the words are not actionable in themselves when the special damage complained of results. |

THE FIRST SCHEDULE—*contd.*First Division, Suits—*contd.*

| Description of suit                                                                                         | Period of limitation | Time from which period begins to run. |
|-------------------------------------------------------------------------------------------------------------|----------------------|---------------------------------------|
| <i>Part II.—One year suits</i>                                                                              |                      |                                       |
| 26. For compensation for loss of service occasioned by the seduction of the plaintiff's servant or daughter | One year             | When the loss occurs                  |
| 27. For compensation for inducing a person to break a contract with the plaintiff                           | Ditto                | The date of the breach.               |
| 28. For compensation for an illegal, irregular or excessive distress                                        | Ditto                | The date of the distress              |
| 29. For compensation for wrongful seizure of moveable property under legal process                          | Ditto                | The date of the seizure.              |
| 30. Against a carrier for compensation for losing or injuring goods                                         | Ditto                | When the loss or injury occurs        |
| 31.—Against a carrier for compensation for non-delivery of, or delay in delivering, goods                   | Ditto                | When the goods ought to be delivered  |

THE FIRST SCHEDULE—*contd*FIRST DIVISION : SUIT,—*contd*

| Description of suit                                                                                                             | Period of limitation.       | Time from which period begins to run                                   |
|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------|------------------------------------------------------------------------|
|                                                                                                                                 | <i>Part V.—Two years</i>    |                                                                        |
| 32.—Against one who, having a right to use property for specific purposes, perverts it to other purposes.                       | Two years                   | When the perversion first becomes known to the person injured thereby. |
| 33.—Under the Legal Representatives' Suits Act, 1855, against an executor.                                                      | Ditto                       | When the wrong complained of is done                                   |
| 34.—Under the same Act against an administrator.                                                                                | Ditto                       | Ditto.                                                                 |
| 35.—Under the same Act against any other representative                                                                         | Ditto                       | Ditto                                                                  |
| 36.—For compensation for any nuisance, misfeasance or nonfeasance independent of contract and not herein specially provided for | Ditto                       | When the malfeasance, misfeasance or nonfeasance takes place.          |
|                                                                                                                                 | <i>Part VI.—Three years</i> |                                                                        |
| 37.—For compensation for obstructing a way or a watercourse.                                                                    | Three years . .             | The date of the obstruction.                                           |
| 38.—For compensation for diverting a watercourse                                                                                | Ditto . .                   | The date of the diversion.                                             |

THE FIRST SCHEDULE *contd.*  
FIRST DIVISION *Suits contd.*

| Description of suit                                                                                                                                                                                                                                            | Period of limitation | Time from period to run                 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|-----------------------------------------|
| <i>Part VI Three years contd.</i>                                                                                                                                                                                                                              |                      |                                         |
| 9. For compensation for trespass upon immovable property                                                                                                                                                                                                       | Three years          | The date of trespass                    |
| 10. For compensation for infringement of copyright or any other exclusive privilege                                                                                                                                                                            | Ditto                | The date of infringement                |
| 11. For restoration of a will                                                                                                                                                                                                                                  | Ditto                | When the will begins                    |
| 12. For compensation for injury caused by an injunction wrongfully obtained                                                                                                                                                                                    | Ditto                | When the injunction ceases              |
| 13. Under the Indian Succession Act 1869 section 420 or section 421 or under the Probate and Administration Act, 1881, section 139 or section 140 to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets. | Ditto                | The date of the payment or distribution |
| By a ward who has attained majority, to set aside a transfer of property by his guardian.                                                                                                                                                                      | Ditto                | When the ward attains majority.         |

THE FIRST SCHEDULE *contd*FIRST DIVISION - Suits- *contd*

| Description of suit.                                                                                                                                                                                                                                                                           | Period of limitation. | Time from which period begins to run              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|---------------------------------------------------|
| <i>Part VI. - Three years- contd</i>                                                                                                                                                                                                                                                           |                       |                                                   |
| 45.—To contest an award under any of the following Regulations of the Bengal Code.—<br><br>The Bengal Land-revenue Settlement Regulation, 1822.<br><br>The Bengal Land-revenue Settlement Regulation, 1825<br><br>The Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833. | Three years           | The date of the final award or order in the case  |
| 46.—By a party bound by such award to recover any property comprised therein.                                                                                                                                                                                                                  | Ditto                 | The date of the final award or order in the case. |
| 47.—By any person bound by an order respecting the possession of immovable property made under the Code of Criminal Procedure, 1898, or the Mamlatdars' Courts Act, 1906, or by any one claiming under such person, to recover the property comprised in such order.                           | Ditto                 | The date of the final order in the case.          |

THE FIRST SCHEDULE—*contd.*First Division: *Suit*—*contd.*

| Description of suit                                                                                                                                                      | Period of limitation | Time from which period begins to run                                                                   |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|--------------------------------------------------------------------------------------------------------|
| <i>Part VI.—Three years—contd.</i>                                                                                                                                       |                      |                                                                                                        |
|                                                                                                                                                                          |                      |                                                                                                        |
| 18. For specific movable property lost, or acquired by theft or dishonest misappropriation or conversion or for compensation for wrongfully taking or detaining the same | Three years . .      | When the person having the right to the possession of the property first learns whose possession it is |
| 19. For other specific movable property or for compensation for wrongfully taking or injuring or wrongfully detaining the same                                           | Ditto                | When the property is wrongfully taken or injured or when the detainer's possession becomes unlawful    |
| 20.—For the hire of animals, vehicles, boats or household furniture                                                                                                      | Ditto                | When the hire becomes payable                                                                          |
| 21.—For the balance of money advanced in payment of goods to be delivered.                                                                                               | . .                  | When the goods ought to be delivered.                                                                  |
| 22.—For the price of goods sold and delivered, where no fixed period of credit is agreed upon.                                                                           | Ditto                | The date of delivery of the goods                                                                      |
| 23.—For the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit                                                                | Ditto                | When the period of credit expires                                                                      |

THE FIRST SCHEDULE—*contd*FIRST DIVISION : SUITS —*contd*

| Description of suit                                                                                                             | Period of limitation | Time from which period begins to run.         |
|---------------------------------------------------------------------------------------------------------------------------------|----------------------|-----------------------------------------------|
| <i>Part VI - Three years—contd</i>                                                                                              |                      |                                               |
| —For the price of goods sold and delivered to be paid for by a bill of exchange, no such bill being given                       | Three years          | When the period of the proposed bill elapses. |
| —For the price of trees or growing crops sold by the plaintiff to the defendant, where no fixed period of credit is agreed upon | Ditto                | The date of the sale                          |
| —For the price of work done by the plaintiff for the defendant at his request, where no time has been fixed for payment         | Ditto                | When the work is done                         |
| ✓ For money payable for money lent                                                                                              | Ditto                | When the loan is made                         |
| —Like suit when the lender has given a cheque for the money.                                                                    | Ditto                | When the cheque is paid                       |
| ✓ For money lent under an agreement that it shall be payable on demand                                                          | Ditto                | When the loan is made                         |



THE FIRST SCHEDULE—*contd.*  
 FIRST DIVISION Suits *contd.*

| Description of suit                                                                                                                               | Period of limitation                             | Time from which period begins to run                                                                                                                                                                                                                             |
|---------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 60 For money deposited under an agreement that it shall be payable on demand, including money of a customer in the hands of his banker so payable | Part VI—Three years <i>contd.</i><br>Three years | When the demand is made                                                                                                                                                                                                                                          |
| 61 For money payable to the plaintiff for money paid for the defendant                                                                            | Ditto                                            | When the money is paid                                                                                                                                                                                                                                           |
| 62 For money payable by the defendant to the plaintiff for money received by the defendant for the plaintiff's use                                | Ditto                                            | When the money is received                                                                                                                                                                                                                                       |
| 63 For money payable for interest upon money due from the defendant to the plaintiff                                                              | Ditto                                            | When the interest becomes due                                                                                                                                                                                                                                    |
| For money payable to the plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them.                 | Ditto                                            | When the accounts are stated in writing signed by the defendant or his agent duly authorized in this behalf, unless where the debt is by a simultaneous agreement in writing signed as aforesaid, made payable at a future time, and then when that time arrives |

THE FIRST SCHEDULE—*contd.*FIRST DIVISION SUITS—*contd.*

| Description of suit                                                                                                            | Period of limitation | Time from which period begins to run                       |
|--------------------------------------------------------------------------------------------------------------------------------|----------------------|------------------------------------------------------------|
| <i>Part VI. - Three years—contd.</i>                                                                                           |                      |                                                            |
| —For compensation for breach of a promise to do anything at a specified time, or upon the happening of a specified contingency | Three years          | When the time specified arrives or the contingency happens |
| —On a single bond, where a day is specified for payment.                                                                       | Ditto                | The day so specified                                       |
| —On a single bond where no such day is specified                                                                               | Ditto                | The date of executing the bond                             |
| On a bond subject to a condition.                                                                                              | Ditto                | When the condition is broken                               |
| On a bill of exchange or promissory note payable at a fixed time after date                                                    | Ditto                | When the bill or note falls due                            |
| On a bill of exchange payable at sight, or after sight, but not at a fixed time.                                               | Ditto                | When the bill is presented                                 |
| On a bill of exchange accepted payable at a particular place                                                                   | Ditto                | When the bill is presented at that place                   |
| On a bill of exchange or promissory note payable at a fixed time after sight or after demand.                                  | Ditto                | When the fixed time expires.                               |

THE FIRST SCHEDULE—*contd.*FIRST DIVISION : Suits—*contd.*

| Description of suit                                                                                                                                            | Period of limitation | Time from which period begins to run.                                                                                                                                            |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Part VI—Three years—contd</i>                                                                                                                               |                      |                                                                                                                                                                                  |
| 73. On a bill of exchange or promissory note payable on demand and not accompanied by any writing restraining or postponing the right to sue.                  | Three years ...      | The date of the bill or note                                                                                                                                                     |
| 74. On a promissory note or bond payable by instalments                                                                                                        | Ditto                | The expiration of the first term of payment as to the part then payable; and for the other parts, the expiration of the respective terms of payment.                             |
| 75. On a promissory note or bond payable by instalments, which provides that, if default be made in payment of one or more instalments, the whole shall be due | Ditto                | When the default is made, unless where the payee or obligee waives the benefit of the provision, and then when fresh default is made in respect of which there is no such waiver |
| 76. On a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen.                                | Ditto                | The date of the delivery to the payee                                                                                                                                            |

THE FIRST SCHEDULE—*contd*FIRST DIVISION—SUITS—*contd*

| Description of suit.                                                                                    | Period of limitation | Time from which period begins to run                      |
|---------------------------------------------------------------------------------------------------------|----------------------|-----------------------------------------------------------|
| <i>Part VI.—Three years—contd.</i>                                                                      |                      |                                                           |
| 77.—On a dishonoured foreign bill, where protest has been made and notice given                         | Three years          | When the notice is given                                  |
| 78.—By the payee against the drawer of a bill of exchange, which has been dishonoured by non-acceptance | Ditto                | The date of the refusal to accept                         |
| 79.—By the acceptor of an accommodation-bill against the drawer                                         | Ditto                | When the acceptor pays the amount of the bill             |
| 80.—Suit on a bill of exchange, promissory note or bond not herein expressly provided for               | Ditto                | When the bill, note or bond becomes payable               |
| 81.—By a surety against the principal debtor                                                            | Ditto                | When the surety pays the creditor                         |
| 82.—By a surety against a co-surety                                                                     | Ditto                | When the surety pays anything in excess of his own share. |
| 83.—Upon any other contract to indemnify                                                                | Ditto                | When the party is actually defrauded.                     |

THE FIRST SCHEDULE—*contd.*FIRST DIVISION : Suits—*contd.*

| Description of suit, | Period of limitation, | Time from which period begins to run |
|----------------------|-----------------------|--------------------------------------|
|----------------------|-----------------------|--------------------------------------|

*Part VI.—Three years—contd.*

- |                                                                                                                                                             |                 |                                                                                                                                                                 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 84 By an attorney or vakil for his costs of a suit or a particular business, there being no express agreement as to the time when such costs are to be paid | Three years ... | The date of the termination of the suit or business or (where the attorney or vakil properly discontinues the suit or business) the date of such discontinuance |
| 85 For the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties                                  | Ditto           | The close of the year in which the last item admitted or proved is entered in the account, such year to be computed as in the account.                          |
| 86.—On a policy of insurance, when the sum assured is payable immediately after proof of the death or loss has been given to or received by the insurers.   | Ditto           | When proof of the death or loss is given or received to or by the insurer, whether by or from the plaintiff, or any other person                                |
| 87.—By the assured to recover premia paid under a policy voidable at the election of the insurers.                                                          | Ditto           | When the insurers elect to avoid the policy.                                                                                                                    |

THE FIRST SCHEDULE—*contd*FIRST DIVISION: SUITS—*contd*.

| Description of suit                                                                                    | Period of limitation | Time from which period begins to run.                                                                                                        |
|--------------------------------------------------------------------------------------------------------|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Part VI.—Three years—contd</i>                                                                      |                      |                                                                                                                                              |
| 8.—Against a factor for an account                                                                     | Three years          | When the account is, during the continuance of the agency, demanded and refused or, where no such demand is made, when the agency terminates |
| 9.—By a principal against his agent for movable property received by the latter and not accounted for. | Ditto                | Ditto                                                                                                                                        |
| 10.—Other suits by principals against agents for neglect or misconduct                                 | Ditto                | When the neglect or misconduct becomes known to the plaintiff.                                                                               |
| 11. To cancel or set aside an instrument not otherwise provided for                                    | Ditto                | When the facts entitling the plaintiff to have the instrument cancelled or set aside become known to him                                     |
| 12. —To declare the forgery of an instrument issued or registered.                                     | Ditto                | When the issue or registration becomes known to the plaintiff.                                                                               |

THE FIRST SCHEDULE.—*contd.*FIRST DIVISION: SUIRE.—*contd.*

| Description of suit.                                                                                       | Period of limitation. | Time from which period begins to run                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------|----------------------------------------------------------------------------------------------|
| <i>Part VI.—Three years.—contd.</i>                                                                        |                       |                                                                                              |
| 93.—To declare the forgery of an instrument attempted to be enforced against the plaintiff.                | Three years           | The date of attempt                                                                          |
| 94.—For property which the plaintiff has conveyed while insane                                             | Ditto                 | When the plaintiff is restored to sanity, and has knowledge of the conveyance                |
| ✓ 95.—To set aside a decree obtained by fraud, or for other relief on the ground of fraud.                 | Ditto                 | When the fraud becomes known to the party wronged                                            |
| 96.—For relief on the ground of mistake.                                                                   | Ditto                 | When the mistake becomes known to the plaintiff                                              |
| 97.—For money paid upon an existing consideration which afterwards fails                                   | Ditto                 | The date of the failure.                                                                     |
| 98.—To make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust. | Ditto                 | The date of the trustee's death, or, if the loss has not then resulted the date of the loss. |

THE FIRST SCHEDULE—*contd.*FIRST DIVISION: Suits—*contd.*

| Description of suit                                                                                                                                                                                                                                            | Period of limitation | Time from which period begins to run                                                                                                                             |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Part VI.—Three years—contd.</i>                                                                                                                                                                                                                             |                      |                                                                                                                                                                  |
| For contribution by a party who has paid the whole or more than his share of the amount due under a joint decree, or by a sharer in a joint estate who has paid the whole or more than his share of the amount of revenue due from himself and his co-sharers. | Three years          | The date of the payment in excess of the plaintiff's own share                                                                                                   |
| 100.—By a co-trustee to enforce against the estate of a deceased trustee a claim for contribution                                                                                                                                                              | Ditto                | When the right to contribution accrues                                                                                                                           |
| 101.—For a seaman's wages                                                                                                                                                                                                                                      | Ditto                | The end of the voyage during which the wages are earned                                                                                                          |
| 102.—For wages not otherwise expressly provided for by this schedule.                                                                                                                                                                                          | Ditto                | When the wages accrue due.                                                                                                                                       |
| 103.—By a Muhammadan for exigible dower ( <i>muh' ajjal</i> )                                                                                                                                                                                                  | Ditto                | When the dower is demanded and refused or (where, during the continuance of the marriage, no such demand has been made) when the marriage is dissolved by death. |



THE FIRST SCHEDULE—*contd*FIRST DIVISION: Suits—*contd*

| Description of suit                                                                                                                        | Period of limitation. | Time from what period begins to run.                    |
|--------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|---------------------------------------------------------|
| <i>Part VI.—Three years—contd</i>                                                                                                          |                       |                                                         |
| 104. —By a Muhammadan for deferred dower ( <i>mu'awjiz</i> )                                                                               | Three years . .       | When the marriage is dissolved by death or divorce      |
| 105. By a mortgagee after the mortgage has been satisfied, to recover surplus collections received by the mortgagee                        | Ditto                 | When the mortgagee re-enters on the mortgaged property. |
| 106. —For an account and a share of the profits of a dissolved partnership.                                                                | Ditto                 | The date of the dissolution                             |
| 107. —By the manager of a joint estate of an undivided family for contribution, in respect of payment made by him on account of the estate | Ditto                 | The date of the payment                                 |
| 108. —By a lessor for the value of trees cut down by his lessee contrary to the terms of the lease                                         | Ditto                 | When the trees are cut down                             |
| 109. —For the profits of immovable property belonging to the plaintiff which have been wrongfully received by the defendant.               | Ditto                 | When the profits are received                           |

THE FIRST SCHEDULE—*contd.*FIRST DIVISION - SUTS—*contd.*

| Description of suit                                                                 | Period of limitation | Time from which period begins to run.                                                                                                   |
|-------------------------------------------------------------------------------------|----------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| <i>Part VI.—Three years—contd.</i>                                                  |                      |                                                                                                                                         |
|                                                                                     |                      |                                                                                                                                         |
| 10.—For arrears of rent                                                             | Three years          | When the arrears become due.                                                                                                            |
| 11.—By a vendor of immovable property for personal payment of unpaid purchase-money | Ditto                | The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance |
| 12.—For a call by a company registered under any Statute or Act                     | Ditto                | When the call is payable                                                                                                                |
| 13.—For specific performance of a contract                                          | Ditto                | The date fixed for the performance, or, if no such date is fixed, when the plaintiff has notice that performance is refused             |
| 14.—For the rescission of a contract.                                               | Ditto                | When the facts entitling the plaintiff to have the contract rescinded first come known to him                                           |

THE FIRST SCHEDULE—*contd.*FIRST DIVISION, SITS—*contd.*

| Description of suit                                                                                                                      | Period of limitation | Time from which period begins to run                                                                                                                                                       |
|------------------------------------------------------------------------------------------------------------------------------------------|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Part VI. Three years—<i>contd.</i></i>                                                                                                |                      |                                                                                                                                                                                            |
|                                                                                                                                          |                      |                                                                                                                                                                                            |
| 115. For compensation for the breach of any contract express or implied not in writing registered and not here-in specially provided for | Three years          | When the contract is broken, or (where there are successive breaches) when the breach in respect of which the suit is instituted occurs, or (when the breach is continuing) when it ceases |
| <i>Part VII—Six years</i>                                                                                                                |                      |                                                                                                                                                                                            |
| 116. For compensation for the breach of a contract in writing registered                                                                 | Six years            | When the period of limitation would begin to run against a suit brought on a similar contract not registered                                                                               |
| 117. Upon a foreign judgment as defined in the Code of Civil Procedure, 1908                                                             | Ditto                | The date of the judgment                                                                                                                                                                   |
| 118. To obtain a declaration that an alleged adoption is invalid, or never, in fact, took place                                          | Ditto                | When the alleged adoption becomes known to the plaintiff                                                                                                                                   |

THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUTS—*contd.*

| Description of suit                                                                                                                                                            | Period of limitation | Time from which period begins to run,                             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|-------------------------------------------------------------------|
| <i>Part VII.—Six years—contd.</i>                                                                                                                                              |                      |                                                                   |
| 119.—To obtain a declaration that an adoption is valid                                                                                                                         | Six years            | When the rights of the adopted son, as such, are interfered with. |
| 120.—Suit for which no period of limitation is provided elsewhere in this schedule.                                                                                            | Ditto                | When the right to sue accrues.                                    |
| <i>Part VIII<br/>Twelve years.</i>                                                                                                                                             |                      |                                                                   |
| 121.—To avoid incumbrances or under-tenures in an entire estate sold for arrears of Government revenue, or in a patti taluk or other saleable tenure sold for arrears of rent. | Twelve years         | When the sale becomes final and conclusive                        |
| 122.—Upon a judgment obtained in British India, or a recognisance                                                                                                              | Ditto                | The date of the judgment or recognisance.                         |
| 123.—For a legacy or for a share of a residue bequeathed by a testator, or for a distributive share of the property of an intestate                                            | Ditto                | When the legacy or share becomes payable or deliverable           |

THE FIRST SCHEDULE- *contd.*FIRST DIVISION : Suits-*contd.*

| Description of suit | Period of limitation. | Time from period be to run |
|---------------------|-----------------------|----------------------------|
|---------------------|-----------------------|----------------------------|

*Part VIII. -  
Twelve years-  
contd.*

|                                            |              |                                                                               |
|--------------------------------------------|--------------|-------------------------------------------------------------------------------|
| 121 For possession of an hereditary office | Twelve years | When the defendant takes possession of the office adversely to the plaintiff. |
|--------------------------------------------|--------------|-------------------------------------------------------------------------------|

*Explanation*—A hereditary office is possessed when the profits thereof are usually received, or (if there are no profits) when the duties thereof are usually performed.

|                                                                                                                                                                                                                                                                                                                     |       |                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|------------------------|
| 122 Suit during the life of a Hindu or Muhammadan female by a Hindu or Muhammadan who, if the female died at the date of instituting the suit, would be entitled to the possession of land, to have an alienation of such land made by the female declared to be void except for her life or until her re-marriage. | Ditto | The date of alienation |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|------------------------|

THE FIRST SCHEDULE—*contd.*FIRST DIVISION - SUIT—*contd.*

| Description of suit                                                                                          | <i>Period of limitation</i> | <i>Time from which period begins to run.</i>                    |
|--------------------------------------------------------------------------------------------------------------|-----------------------------|-----------------------------------------------------------------|
| <i>Part VIII -<br/>Twelve years—<br/>contd</i>                                                               |                             |                                                                 |
| —By a Hindu governed by the law of the Mitakshara to set aside his father's alienation of ancestral property | Twelve years                | When the alienee takes possession of the property               |
| —By a person excluded from joint family property to enforce a right to share therein                         | Ditto                       | When the exclusion becomes known to the plaintiff.              |
| —By a Hindu for arrears of maintenance                                                                       | Ditto                       | When the arrears are payable                                    |
| —By a Hindu for a declaration of his right to maintenance                                                    | Ditto                       | When the right is denied                                        |
| —For the resumption or assessment of rent-free land                                                          | Ditto                       | When the right to resume or assess the land first accrues       |
| —To establish a periodically recurring right                                                                 | Ditto                       | When the plaintiff is first refused the enjoyment of the right. |
| 2.- To enforce payment of money charged upon immovable property                                              | Ditto                       | When the money sued for becomes due.                            |

THE FIRST SCHEDULE—*contd.*FIRST DIVISION - SUITS—*contd.*

| Description of suit                                                                                                                                                                                 | Period of limitation | Time from which period begins to run                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|-----------------------------------------------------|
| <p><i>Explanation.</i> The allowance and fees respectively called <i>malikana</i> and <i>hums</i> shall for the purpose of this article, be deemed to be money charged upon immovable property.</p> |                      |                                                     |
| 133. To recover movable property conveyed or bequeathed in trust, deposited or pawned, and afterwards bought from the trustee, depositary or pawnor for a valuable consideration                    | Twelve years         | The date of the purchase                            |
| 134. To recover possession of immovable property conveyed or bequeathed in trust or mortgaged and afterwards transferred by the trustee or mortgagor for a valuable consideration                   | Ditto                | The date of the transfer                            |
| 135.—Suit instituted in a Court not established by Royal Charter by a mortgagee for possession of immovable property mortgaged.                                                                     | Ditto                | When the mortgagor's right to possession determines |

THE FIRST SCHEDULE—*contd.*FIRST DIVISION—*Enfs—contd*

| Description of suit.                                                                                                                          | Period of limitation                                              | Time from which period begins to run                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|-----------------------------------------------------------|
| 36.—By a purchaser at a private sale for possession of immoveable property sold when the vendor was out of possession at the date of the sale | <i>Part VIII—<br/>Twelve years—<br/>contd</i><br><br>Twelve years | When the vendor is first entitled to possession.          |
| 37.—Like suit by a purchaser at a sale in execution of a decree, when the judgment-debtor was out of possession at the date of the sale       | Ditto                                                             | When the judgment-debtor is first entitled to possession. |
| 38.—Like suit by a purchaser at a sale in execution of a decree, when the judgment-debtor was in possession at the date of the sale           | Ditto                                                             | The date when the sale becomes absolute                   |
| 39.—By a landlord to recover possession from a tenant                                                                                         | Ditto                                                             | When the tenancy is determined.                           |
| 40.—By a remainderman, reversioner (other than a landlord) or a devisee, for possession of immoveable property.                               | Ditto                                                             | When his estate falls into possession                     |



THE FIRST SCHEDULE—*contd.*FIRST DIVISION. *Suit—contd.*

| Description of suit                                                                                                                                       | Period of limitation | Time from which period begins to run                                  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|-----------------------------------------------------------------------|
| <i>Part VIII—<br/>Twelve years—<br/>contd.</i>                                                                                                            |                      |                                                                       |
| 141. Like suit by a Hindu or Muhammadan entitled to the possession of immovable property on the death of a Hindu or Muhammadan female                     | Twelve years         | When the forfeiture is effected                                       |
| 142. For possession of immovable property when the plaintiff while in possession of the property has been dispossessed or has discontinued the possession | Ditto                | The date of dispossession discontinued                                |
| 143.—Like suit when the plaintiff has become entitled by reason of any forfeiture or breach of condition                                                  | Ditto                | When the forfeiture is incurred or the condition broken               |
| 144.—For possession of immovable property or any interest therein not hereby otherwise specially provided for                                             | Ditto                | When the possession of the defendant becomes adverse to the plaintiff |
| <i>Part IX.—<br/>Thirty years.</i>                                                                                                                        |                      |                                                                       |
| 145.—Against a depository or pawnbroker to recover moveable property deposited or pawned.                                                                 | Thirty years         | The date of the deposit or pawn                                       |

THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

| Description of suit.                                                                                                                                                                                      | Period of limitation.             | Time from which period begins to run.                                                    |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                           | <i>Part IX—<br/>Thirty years.</i> |                                                                                          |
| 146.—Before a Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction by a mortgagee to recover from the mortgagor the possession of immoveable property mortgaged | Thirty years                      | When any part of the principal or interest was last paid on account of the mortgage-debt |
| 146A.—By or on behalf of any local authority for possession of any public street or road or any part thereof from which it has been dispossessed or of which it has discontinued the possession           | Ditto                             | The date of the dispossession or discontinuance                                          |
|                                                                                                                                                                                                           | <i>Part A.—Sixty years.</i>       |                                                                                          |
| 147.—By a mortgagee for foreclosure or sale                                                                                                                                                               | Sixty years                       | When the money secured by the mortgage becomes due.                                      |
| 148.—Against a mortgagee to redeem or to recover possession of immoveable property mortgaged.                                                                                                             | Ditto                             | When the right to redeem or to recover possession accrues.                               |

THE FIRST SCHEDULE—*contd.*  
 FIRST DIVISION SUITS—*concl'd.*

| Description of suit | Period of limitation | Time from period beg to run |
|---------------------|----------------------|-----------------------------|
|---------------------|----------------------|-----------------------------|

Part A Sixty  
years

Provided that claims to redemptions arising under instruments of mortgage of immoveable property situate in Lower Burma which had been executed before the first day of May 1863 shall be governed by the rules of limitation in force in that province immediately before the same day

49—Any suit by or on behalf of the Secretary of State for India in Council

Sixty years

When the period of limitation would begin to run under the Act against a like suit by a private person

THE FIRST SCHEDULE—*contd.*

## SECOND DIVISION APPEALS.

| Description of appeal.                                                                                                                                                                                             | Period of limitation. | Time from which period begins to run.           |             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|-------------------------------------------------|-------------|
| —Under the Code of Criminal Procedure, 1898, from a sentence of death passed by a Court of Session,                                                                                                                | Seven days            | The date of the sentence.                       | V c<br>190  |
| —From a decree or order of any of the High Courts of Judicature at Fort William, Madras and Bombay or the Chief Court of the Punjab or the Chief Court of Lower Burma in the exercise of its original jurisdiction | Twenty days           | The date of the decree or order.                |             |
| —Under the Code of Civil Procedure 1908, to the Court of a District Judge                                                                                                                                          | Thirty days           | The date of the decree or order appealed from   | V m<br>1908 |
| 3—Under the same Code to a High Court from an order of a Subordinate Court refusing leave to appeal to His Majesty in Council.                                                                                     | Ditto                 | The date of the order                           |             |
| 4.—Under the Code of Criminal Procedure, 1898, to any Court other than a High Court.                                                                                                                               | Ditto                 | The date of the sentence or order appealed from |             |

THE FIRST SCHEDULE—*contd.*SECOND DIVISION APPEALS—*contd.*

| Description of appeal.                                                                                                         | Period of limitation | Time from which period begins to run            |
|--------------------------------------------------------------------------------------------------------------------------------|----------------------|-------------------------------------------------|
| 155.—Under the same Code to a High Court, except in the cases provided for by article 150 and article 157.                     | Sixty days . .       | The date of the sentence or order appealed from |
| V of 1903                                                                                                                      | Ninety days . .      | The date of the decree or order appealed from   |
| 156.—Under the Code of Civil Procedure, 1908, to a High Court, except in the cases provided for by article 151 and article 153 |                      |                                                 |
| V of 1908.                                                                                                                     | Six months . .       | The date of the order appealed from.            |
| 157.—Under the Code of Criminal Procedure, 1898 from an order of acquittal                                                     |                      |                                                 |

## THE FIRST SCHEDULE—contd.

## THIRD DIVISION : APPLICATIONS.

| Description of application                                                                                                                                                                                               | Period of limitation. | Time from which period begins to run.        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|----------------------------------------------|
| 158.—Under the Code of Civil Procedure, 1908, to set aside an award.                                                                                                                                                     | Ten days              | When the award is submitted to the Court.    |
| 159.—For leave to appear and defend a suit under the summary procedure referred to in section 128 (2) (f) of the same Code                                                                                               | Ditto                 | When the summons is served.                  |
| 160.—For an order under the same Code, to restore to the file an application for review rejected in consequence of the failure of the applicant to appear when the application was called on for hearing                 | Fifteen days          | When the application for review is rejected. |
| 161.—For a review of judgment by a Provincial Court of Small Causes or by a Court invested with the jurisdiction of a Provincial Court of Small Causes when exercising that jurisdiction                                 | Ditto                 | The day of the decision is the day           |
| 162.—For a review of judgment by any of the High Courts of judicature at Fort William, Madras and Bombay or the Chief Court of the Punjab or the Chief Court of Lower Burma in the exercise of its original jurisdiction | Twenty days           | 15/11/11                                     |

## THE FIRST SCHEDULE—contd.

## THIRD DIVISION APPLICATIONS—contd

| Description of application                                                                                                                                                                                         | Period of limitation | Time from which period begins to run                                                                         |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|--------------------------------------------------------------------------------------------------------------|
| 163. By a plaintiff for an order to set aside a dismissal for default of appearance or for failure to pay costs of service of process or to furnish security for costs.                                            | Thirty days          | The date of dismissal                                                                                        |
| 164. By a defendant for an order to set aside a decree passed ex parte.                                                                                                                                            | Ditto                | The date of the decree, where the summons was not duly served when the applicant has knowledge of the decree |
| 165. Under the Code of Civil Procedure, 1908 in a person dispossessed of immovable property and disputing the right of the decree-holder to purchase at a sale in execution of a decree to be put into possession. | Ditto                | The date of the dispossession                                                                                |
| 166.—Under the same Code to set aside a sale in execution of a decree.                                                                                                                                             | Ditto                | The date of the sale                                                                                         |
| 167.—Complaining of resistance or obstruction to delivery of possession of immovable property decreed or sold in execution of a decree.                                                                            | Ditto                | The date of the resistance or obstruction                                                                    |

THE FIRST SCHEDULE *contd.*THIRD DIVISION - APPLICATIONS - *contd.*

| Description of application.                                                                                                                                 | Period of limitation. | Time from which period begins to run.                                                                                                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| -For the readmission of an appeal dismissed for want of prosecution                                                                                         | Thirty days ...       | The date of the dismissal.                                                                                                           |
| -For the re-hearing of an appeal heard <i>ex parte</i>                                                                                                      | Ditto ..              | The date of the decree in appeal or, where notice of the appeal was not duly served, when the applicant has knowledge of the decree. |
| -For leave to appeal as a pauper.                                                                                                                           | Ditto ...             | The date of the decree appealed from.                                                                                                |
| -Under the Code of Civil Procedure, 1908, for an order to set aside an abatement.                                                                           | Sixty days ..         | The date of the abatement.                                                                                                           |
| -Under the same Code by the assignee or the receiver of an insolvent plaintiff or appellant for an order to set aside the dismissal of a suit or an appeal. | Ditto ..              | The date of the order of dismissal.                                                                                                  |
| 3.-For a review of judgment except in the cases provided for by article 161 and article 162.                                                                | Ninety days ...       | The date of the decree or order.                                                                                                     |



THE FIRST SCHEDULE—*contd.*TENTH DIVISION APPLICATIONS—*contd.*

| Description of application                                                                                                                                                                                                             | Period of limitation. | Time from which period begins to run                           |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|----------------------------------------------------------------|
| 174. For the issue of a notice under the same Code to set aside any payment made out of Court or any money payable under a decree or adjustment of the decree should not be awarded is certified.                                      | Ninety days           | When the payment or adjustment is made                         |
| 175. For payment of the amount of a decree by instalments.                                                                                                                                                                             | Six months            | The date of the decree                                         |
| 176. Under the same Code to set aside the legal representatives of a deceased plaintiff not a deceased appellant made a party.                                                                                                         | Ditto                 | The date of the death of the deceased plaintiff or appellant   |
| 177. Under the same Code to have the legal representatives of a deceased defendant or of a deceased respondent made a party.                                                                                                           | Ditto                 | The date of the death of the deceased defendant or respondent. |
| 178.—Under the same Code for the filing in Court of an award in a suit made in any matter referred to arbitration by order of the Court or of an award made in any matter referred to arbitration without the intervention of a Court. | Ditto                 | The date of the award                                          |

THE FIRST SCHEDULE—*contd*THIRD DIVISION. APPEALS—*contd*

| Description of application                                                                                                                       | Period of limitation                                                                           | Time from which period begins to run                                                                                                                                                                                                                                                                         |
|--------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| —By a person desiring to appeal under the same Code to His Majesty in Council for leave to appeal                                                | Six months                                                                                     | The date of the decree appealed from                                                                                                                                                                                                                                                                         |
| —By a purchaser of immoveable property at a sale in execution of a decree for delivery of possession                                             | Three years                                                                                    | When the sale becomes absolute.                                                                                                                                                                                                                                                                              |
| —Applications for which no period of limitation is provided elsewhere in this schedule or by section 48 of the Code of Civil Procedure, 1908     | Ditto                                                                                          | When the right to apply accrues                                                                                                                                                                                                                                                                              |
| —For the execution of a decree or order of any Civil Court not provided for by article 183 or by section 48 of the Code of Civil Procedure, 1908 | Three years, or, where a certified copy of the decree or order has been registered, six years. | <div>1 The date of the decree or order, or</div> <div>2 (where there has been an appeal) the date of the final decree or order of the Appellate Court, or the withdrawal of the appeal, or</div> <div>3. (where there has been a review of judgment) the date of the decision passed on the review, or</div> |

THE FIRST SCHEDULE—*contd.*THIRD DIVISION : APPLICATIONS—*contd.*

| Description of application.                                                                                                                                        | Period of limitation                                                                              | Time from which period begins to run                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 182 —For the execution of a decree or order of any Civil Court not provided for by article 183 or by section 48 of the Code of Civil Procedure, 1908 <i>contd.</i> | Three years ;<br>or, where a certified copy of the decree or order has been registered, six years | <p>4 (where the decree has been amended) the date of amendment, or</p> <p>5 (where the application next hereinafter mentioned has been made) the date of applying in accordance with law to the proper Court for execution, or to take some step in aid of execution of the decree or order, or</p> <p>6 (where the notice next hereinafter mentioned has been issued) the date of issue of notice to the person against whom execution is applied for to show cause why the decree should not be executed against him, when the issue of such a notice is required by the Code of Civil Procedure, 1908, or</p> |

THE FIRST SCHEDULE *contd.*THIRD DIVISION : APPLICATIONS *contd.*

| Description of application.                                                                                                                                      | Period of limitation                                                                          | Time from which period begins to run                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 82—For the execution of a decree or order of any Civil Court not provided for by article 183 or by section 48 of the Code of Civil Procedure, 1908 <i>contd.</i> | Three years, or, where a certified copy of the decree or order has been registered, six years | 7. (where the application is to enforce any payment which the decree or order directs to be made at a certain date) such date<br><br><i>Explanation I. —</i><br>Where the decree or order has been passed severally in favour of more persons than one, distinguishing portions of the subject-matter as payable or deliverable to each, the application mentioned in clause 5 of this article shall take effect in favour only of such of the said persons or their representatives as it may be made by. But where the decree or order has been passed jointly in favour of more persons than one, such application, if made by any |



THE FIRST SCHEDULE—*contd.*THIRD DIVISION. APPLICATIONS—*contd.*

| Description of application.                                                                                                                                                                 | Period of limitation                                                                                  | Time from which period begins to run.                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>—For the execution of a decree or order of any Civil Court not provided for by article 18 or by section 48 of the Code of Civil Procedure, 1908—<i>contd.</i></p>                        | <p>Three years; or, where a certified copy of the decree or order has been registered, six years.</p> | <p><i>Explanation II.</i>—“Proper Court” means the Court whose duty it is to execute the decree or order.</p>                                                                                                                                                                                                                                                                                                                                                                              |
| <p>—To enforce a judgment, decree or order of any Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction, or an order of His Majesty in Council</p> | <p>Twelve years</p>                                                                                   | <p>When a present right to enforce the judgment, decree or order accrues to some person capable of releasing the right</p> <p>Provided that when the judgment, decree or order has been revived, or some part of the principal money secured thereby or some interest on such money has been paid, or some acknowledgment of the right thereto has been given in writing signed by the person liable to pay such principal or interest, or his agent, to the person entitled to or his</p> |

THE FIRST SCHEDULE—*contd.*THIRD DIVISION : APPLICATION—*contd.*

| Description of application.                                                                                                                                                              | Period of limitation. | Time from which period begins to run                                                                                                                                       |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 184.—To enforce a judgment, decree or order of any Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction, or an order of His Majesty in Council | Twelve years.         | the twelve years shall be computed from the date of such revivor, payment or acknowledgment or the latest of such revivors, payment or acknowledgments, as the case may be |

## THE SECOND SCHEDULE.

## TERRITORIES REFERRED TO IN SECTION 31.

(See section 31)

The Presidency of Fort St. George

The Presidency of Bombay

The Sambalpur District of the Bengal Division of the Presidency of Fort William

The United Provinces of Agra and Oudh

Burma.

The Central Provinces.

Ajmer-Merwara.

## THE HINDU SUCCESSION ACT, 1925

IN THE HINDU SUCCESSION ACT, 1925

(See section 25)

| Year. | No.  | Short title.                                                            | Extent of repeal                                                                                                                       |
|-------|------|-------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| 1877  | XV   | The Indian Limitation Act, 1877.                                        | The whole.                                                                                                                             |
| 1877  | XVII | The Punjab Courts Act, 1877.                                            | So much as has not been repealed.                                                                                                      |
| 1879  | XII  | The Registration and Limitation Act, 1879.                              | In the title the words "and the Limitation Act, 1877," and, after section 107, from the words "and whereas" to the end of the Act.     |
| 1881  | V    | The Probate and Administration Act, 1881.                               | Section 1.                                                                                                                             |
| 1887  | IX   | The Provincial Small Cause Courts Act, 1887.                            | Section 36.                                                                                                                            |
| 1888  | VII  | The Civil Procedure Code Amendment Act, 1888.                           | In the title and in the preamble, the words "and the Indian Limitation Act, 1877," and of section 66 so much as has not been repealed. |
| 1892  | VI   | The Indian Limitation Act and Civil Procedure Code Amendment Act, 1892. | In the title and in the preamble, the words "the Indian Limitation Act, 1877," and section 1.                                          |



THE THIRD SCHEDULE—*concl'd.*ENACTMENTS REPEALED—*concl'd.*

(See section 32.)

| Year. | No. | Short title.                                 | Extent of repeal                                                                            |
|-------|-----|----------------------------------------------|---------------------------------------------------------------------------------------------|
| 1899  | X   | The Carriers Act, 1899.                      | Section 3.                                                                                  |
| 1900  | VI  | The Lower Burma Courts Act, 1900.            | So much of section 47 and the first schedule as relates to the Indian Limitation Act, 1877. |
| 1900  | XI  | The Indian Limitation Amendment Act, 1900    | The whole                                                                                   |
| 1906  | IV  | The Presidency Small Cause Courts Act, 1906. | Section 5                                                                                   |

## Statement of Objects and reasons.

1. One immediate circumstance which has moved the Government of India to undertake legislation in connection with the Indian Limitation Act, 1877, is the hardship which has been caused to the holders of mortgages of immoveable property, in forms other than what is known as the English form, over a large part of India, by reason of the recent decision of the Judicial Committee of the Privy Council in the case of *Vasudeva v Srinirasa* (11 C. W. N. 1905). In that case their Lordships, overruling the decisions of the High Courts of Bombay, Madras, and Allahabad, have advised that the period of limitation prescribed by the Indian Limitation Act, 1877, for suits to enforce payment of money secured by such mortgages, is twelve years as provided in article 132 of the Second Schedule of that Act, and not the longer period of sixty years prescribed by article 147. In the opinion of the Privy Council the latter article applies only to the class of mortgages in which a suit may be brought for "foreclosure or sale," that is, only to English mortgages. Previous to his decision for nearly a quarter of a century, the law had been held by the High Courts of Bombay and of Allahabad to be that every suit by a mortgagee either for foreclosure or for sale was governed by the sixty years' rule of limitation enacted in article 147, and the same view of the law had been accepted by the High Court of Madras and by some other High Courts. The effect of the decision of the Privy Council has been that in the territories within the jurisdiction of the above High Courts a number of suits for the enforcement of mortgages, which, before the decision of the Privy Council, would have been within time, have been and must be dismissed by the Courts on the ground that they are barred by limitation, and that the claimants under a still larger number of mortgages have become unenforceable owing to the construction thus put on the statute of Limitation. This result is undoubtedly hard on mortgagees who have relied on the view of the law



